

Hearing Date: December 10, 2014 at 10:00 a.m. (EST)
Objection Deadline: December 10, 2014 at 10:00 a.m. (EST)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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:
In re: : **Chapter 11 Case No.**
:
LEHMAN BROTHERS HOLDINGS INC., et al. : **08-13555 (SCC)**
:
Debtors. : **(Jointly Administered)**
:
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**NOTICE OF MOTION AND HEARING REGARDING LEHMAN BROTHERS
HOLDINGS INC.'S MOTION *IN LIMINE* TO EXCLUDE EXPERT REPORTS AND
TESTIMONY OF DR. CHARLES PAREKH**

PLEASE TAKE NOTICE that by motion *in limine* dated December 9, 2014 (the “Motion”), Lehman Brothers Holdings Inc. (“LBHI”) moved to exclude the reports and testimony of Dr. Charles Parekh.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will take place on December 10, 2014 at 10:00am (EST), or as soon thereafter as the matter may be heard, before the Honorable Shelley C. Chapman, United States Bankruptcy Judge, in Courtroom 623 of the United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, New York 10004 (the “Hearing”).

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the Motion must be made at or prior to the Hearing.

PLEASE TAKE FURTHER NOTICE that if no responses or objections are made at or prior to the Hearing, the relief may be granted as requested in the Motion without further notice or a hearing.

PLEASE TAKE FURTHER NOTICE that you need not appear at the Hearing if you do not object to the relief requested in the Motion.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or at a later hearing.

Dated: December 9, 2014
New York, NY

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EXPERT REPORTS AND TESTIMONY OF DR. CHARLES PAREKH**

TO THE HONORABLE SHELLEY C. CHAPMAN,
UNITED STATES BANKRUPTCY JUDGE:

Lehman Brothers Holdings Inc. ("LBHI" or the "Plan Administrator") and Structured Assets Securities Corporation ("SASCO") (together, and collectively with their affiliated debtors in the above-captioned cases, "Lehman" or the "Debtors") hereby move to exclude the reports and testimony of Dr. Charles Parekh. Dr. Parekh has been proffered by the RMBS Trustees to opine that "employment of the Proposed Lehman Protocol would require more than 20 years of professional and Court time." Parekh Declaration, dated November 14, 2014 ("Parekh Decl.") (Ex. A), at 3. In support of the relief sought herein, Lehman respectfully states as follows:

PRELIMINARY STATEMENT

1. Dr. Parekh is not qualified to render the opinion in his Declaration because: (1) he lacks the requisite expertise in the subject of mortgage review; (2) he has not conducted an independent analysis leading to his conclusion; and (3) the actual substantive expertise he

purports to rely on belongs (at best) to others with whom he claims to have spoken orally, but who have not submitted expert reports. The evidence Parekh plans to offer therefore fails to satisfy the requirements of Federal Rule of Evidence 702. Because it does not rest on a reliable foundation of expertise and experience, the Parekh Declaration fails to meet the minimum standard of *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597 (1993) for the admission of expert testimony. Finally, because the Parekh Declaration relays the opinions of third parties who have not submitted expert reports, such opinions constitute inadmissible hearsay not permitted under Federal Rule of Evidence 703 and barred by Rule 26(a)(2) of the Federal Rules of Civil Procedure.

**PAREKH LACKS THE REQUISITE EXPERTISE AND EXPERIENCE TO
RENDER THE OPINION IN HIS DECLARATION**

A. Parekh Lacks Expertise and Experience in Both Mortgage Loan Review and Mortgage Loan Repurchase Demands.

2. Dr. Parekh holds himself out as an expert on “statistical and economic modeling,” in which he has 20 years of experience. Parekh Decl. at 2. Lehman need not dispute those credentials at present because the closest Dr. Parekh gets to statistical modeling in his Declaration is simple arithmetic, more specifically, the multiplication of hours by number of workers. Transcript of the Deposition of Charles Parekh, dated December 5, 2014 (“Parekh Tr.”) (Ex. B), at 99:8 – 100:17 (“I did the multiplication ... multiplication, I guess, is some level of expertise. But, no, it’s just multiplication.”).

3. Looking past the arithmetic, the actual subjects of expertise that the Parekh Declaration addresses are (a) the process of mortgage loan review in connection with mortgage loan repurchase demands, (b) underwriter capacity in the mortgage loan review industry across

the United States, and (c) the rate at which mortgage loan reviews can be completed in the course of the large-scale mortgage loan review project contemplated by the Protocol.

4. There can be no doubt that these are genuine subjects where proper expert testimony might aid a trier of fact. But Dr. Parekh does not possess that expertise. Dr. Parekh had no experience whatsoever in the mortgage loan sector prior to 2012, and the little experience he does have comes in the litigation context, rather than in the actual buying and selling of loans. Parekh Tr. 164:9, 165:10. Within that business sector, more than ten large companies are engaged in the business of mortgage loan review nationally, plus smaller regional enterprises. Parekh's employer, Duff & Phelps (which he joined in 2011) is not in either group. Parekh Tr. 164:9, 165:10; *see also* 190:18.

5. During his tenure there, Duff & Phelps took on a single, one-off assignment that entailed mortgage loan reviews. Since Duff & Phelps lacked loan review expertise, it subcontracted the work to CrossCheck Compliance. *Id.* 47:10, 188:21-190:20. Parekh received on-the-job training from CrossCheck's loan review professionals. *Id.* 111:9-113:3.

6. Since that single engagement, Duff & Phelps has stayed out of the loan review business. *Id.* 165:10-66:13, 190:18. Given the changes in industry standards since that time, Duff & Phelps (including Dr. Parekh) does not possess "top-flight" forensic loan review expertise, and would need to seek that expertise from outside the firm were an engagement to require it. *Id.* 190:8-191:3 ("it's one of the reasons Duff & Phelps doesn't necessarily want to be in the loan review business").

7. There is no shortage of genuine experts in the field. By contrast with Parekh's lack of experience overseeing loan reviews, Lehman's experts have overseen more than 1500 loan review projects.

8. As to mortgage loan repurchase demands, Dr. Parekh has no experience whatsoever. Id. 185 ("my only experience is that I know people at the firm do this type of work [repurchase demands]... I have not been specifically involved that I can recall, at least right now.").

B. Parekh Lacks the Expertise to Opine As He Does That No More Than 40 Loan Reviewers Can Be Deployed to Work On the Protocol.

9. The sole basis for Parekh's opinion that the loan review will take five to seven years to complete is his assumption that no more than 40 reviewers can work on the RMBS Trustees Step 1 review at any given time. Parekh Decl. at 7. By contrast, Lehman's experts opine that at least ten times that many can be deployed at once. Pino Declaration, dated December 3, 2014 ("Pino Decl.") (Ex. C), at 3.

10. This is the pivotal dispute between Lehman and the Trustees, so it is illuminating to consider what Parekh did to reach his conclusion.

11. To compensate for his own lack of pertinent experience, Parekh asked Joe Phillips, an employee of Digital Risk – the Trustees' loan review firm – one question: could Digital Risk deploy more than 20 loan reviewers to the Lehman project. Parekh Tr. 65:15. Mr. Phillips answered that he could get 40. Id. Asked at his deposition whether this included outside contractors or merely Digital Risk on-site employees, Dr. Parekh did not know because he had not asked Mr. Phillips the question. Id. 66:17. Asked whether Mr. Phillips had actually stated

that Digital Risk could not deploy more than 40 reviewers, Dr. Parekh admitted that he had not asked. Id. 64:17. Asked *why* Digital Risk could not boost the number to 60, Dr. Parekh did not know because he had not asked Mr. Phillips the question. Id. 65:5. Asked whether Digital Risk would be willing to collaborate with another loan review company to increase its capacity beyond 40 reviewers, Dr. Parekh did not know, again because he had not asked. Id. 67:23-69:16.

12. Despite his lack of first-hand knowledge that was the entire breadth and depth of the survey of loan review service providers throughout the United States that Dr. Parekh undertook before rendering his opinion that no loan review project could involve more than 40 reviewers. Id. 67:10.

13. After rendering his opinion regarding the Protocol on November 14th, Parekh did one more thing: he asked two colleagues at Duff & Phelps how many people in the United States possess the ability to conduct loan reviews. Id. 90:11. The three Duff & Phelps directors (Dr. Parekh, Mr. Aronoff, and Mr. Sauerwein) all agreed that the number does not exceed 700. Id. 92:8-21.

14. Mr. Aronoff, according to Dr. Parekh, had an explanation as to why Lehman's experts might have reached a different conclusion. It turns out the "same people" keep getting hired at the different mortgage loan review companies, creating the illusion that there are more than 700 of them. Id. 92:6. Parekh was asked how Aronoff could know this, and he testified as follows: "He has experience on – with loan review firms that have brought in outside reviewers and he knows – you know, he knows who they are, and he's met with them and he's worked with

them at other companies. So, the same people at different times, not at the same time.” Id.
94:13-19.

C. Parekh Lacks the Experience to Opine, As He Does, That It Would Take Approximately Three Years to Gather All Loan Mortgage Files From the Loan Servicers.

15. Parekh estimated that it will take three years to obtain the loan files from the applicable servicers, based on conversations that he conducted with Joe Phillips at Digital Risk. *See* Parekh Decl. at 6; *see also* Parekh Tr. 215:15-18, 218:19-23. This is because it took, he says, 18 to 20 months for Digital Risk to obtain the fewer than 5,000 loans analyzed in the sample.

16. Dr. Parekh’s analysis on the issue involves crude multiplication of the time it took to obtain the loan files of the sample by the “30 to 40 times the number of loans than the initial request.” Id. 221:3-5. His sole explanation is that “you have multiples and multiples of those same problems, and so you’re going to just take more time.” Id. 221:11-13. This opinion is based solely on his reliance on the experience of those at Digital Risk, coupled with multiplication, and Dr. Parekh’s ultimate conclusion in no way flows from the data cited.

D. Parekh Lacks the Experience to Opine, As He Does, That Efficiencies Will Not Develop During the Course of the Loan Review and Negotiation Processes Contemplated in the Protocol.

17. When asked if any efficiencies would arise during the course of the claims negotiation process contemplated in the Protocol, Dr. Parekh stated that he does not believe that any experience is gained from previous negotiations that could be applied moving forward, ultimately creating such efficiencies, because “the evidence that would need to come out of the

negotiation process as the loan proceeds through the Protocol would need to be individualized for that loan.” Parekh Tr. 136:2-6.

18. Dr. Parekh specified that, “my reading of the Protocol requires that evidence be treated on an individual basis. But even generally, if you were trying to estimate claims on a loan-by-loan basis, you would have to look at the totality of each loan to determine whether or not it has a claim.” *Id.* 135:12-18. He further opined that a problem with extrapolating from one Lehman loan to the next is that “by generalizing from one loan to the next, you would be potentially ignoring the totality of what might – what might create a breach. And so, two loans that might have the same breach may not both result in the same kind of claim.” *Id.* 137:9-14.

19. Dr. Parekh has failed to articulate any reason why efficiencies would not develop over the course of a loan-by-loan review, if implemented. It fully comports with the carrying out of such a review that loans would be categorized in a manner during the course of the review and negotiation processes, that a decision as to one loan becomes a decision as to all in any given category.

20. As such, experience gained throughout the implementation of the Protocol will aid both sides, allowing them to apply lessons learned from similar loans and resolve claims on a group – rather than individual – basis in order to streamline the process. *See* Declaration of William Alread, dated December 3, 2014 (“Alread Decl.”) (Ex. D), at 9-11. Loan-by-loan review will create efficiencies. Indeed, it is *solely* through the loan-by-loan analysis in the Protocol that similarities among loans – such as, identical breaches – will be discovered, thereby allowing the parties to negotiate loans in a more efficient manner. *See* Pino Decl. at 5; Alread Decl. at 10.

21. Furthermore, Dr. Parekh's rejection of the idea that any efficiencies will develop, coupled with his insistence that an "individualized" analysis is necessary for each and every loan, is an admission that sampling cannot work precisely – because it requires generalization from one loan to the next without the foundation of knowledge provided by a loan-by-loan review.

E. Parekh Did Not Arrive at His General Opinion Regarding the Protocol Independent of His Client's View That a Loan-By-Loan Review Takes Too Long and Costs Too Much.

22. Dr. Parekh did not give any consideration on his own as to whether a loan-by-loan review of the RMBS claims is a viable alternative to a sampling methodology. When asked if he engaged in any discussions with the Trustees prior to July or August 2014 regarding the potential of performing a loan-by-loan analysis, Dr. Parekh stated, "I don't recall being involved in any personally." Parekh Tr. 33:16-25. He further clarified that "the *clients* expressed what I would characterize as disbelief in an ability to do a loan-by-loan review practically." *Id.* 34:9-13 (emphasis added).

ARGUMENT

A. Dr. Parekh's Qualifications As an Expert Do Not Comport With the Federal Rules of Evidence or the Standard Articulated in *Daubert*.

23. Federal Rule of Evidence 702 provides:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- b) the testimony is based on sufficient facts or data;

- c) the testimony is the product of reliable principles and methods;
and
- d) the expert has reliably applied the principles and methods to the
facts of the case.

Fed. R. Evid. 702.

24. Under Rule 702, district courts must “ensur[e] that an expert’s testimony both rests on a reliable foundation and is relevant to the task at hand” before admitting or considering expert testimony for any purpose. *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597 (1993); *see also Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 148-51 (1999). “Expert testimony which does not relate to any issue in the case is not relevant and, ergo, non-helpful.” *Daubert*, 509 U.S. at 591 (citation omitted). In assessing reliability, courts “should undertake a rigorous examination of the facts on which the expert relies, the method by which the expert draws an opinion from those facts, and how the expert applies the facts and methods to the case at hand.” *Amorgianos v. Nat’l R.R. Passenger Corp.*, 303 F.3d 256, 267 (2d Cir. 2002).

25. “[T]he proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the admissibility requirements of Rule 702 are satisfied.” *United States v. Williams*, 506 F.3d 151, 160 (2d Cir. 2007). The Second Circuit has consistently excluded expert testimony that does not do so. *See, e.g., Raskin v. Wyatt Co.*, 125 F.3d 55, 65-68 (2d Cir. 1997) (expert testimony properly excluded where “report was probative of no material fact”); *Boucher v. U.S. Suzuki Motor Corp.*, 73 F.3d 18, 21-23 (2d Cir. 1996) (expert testimony inadmissible under Rule 702 where “not accompanied by a sufficient factual foundation”). On this basis, bankruptcy courts in this district have granted motions *in limine* to exclude the testimony of experts who fail to meet the standards enumerated in *Daubert*. *See, e.g., In re*

Eastman Kodak Co., No. 12-10202, 2013 WL 4413300, at *5 (Bankr. S.D.N.Y. Aug. 15, 2013);
In re Worldcom, Inc., 371 B.R. 33, 42 (Bankr. S.D.N.Y. 2007).

26. For the reasons set forth below, the anticipated testimony of Dr. Parekh has no basis in his own experience or expertise and merely relays the opinions of other experts, and it is therefore irrelevant to the issues to be resolved in these proceedings, rendering it inadmissible under Rule 702.

B. Dr. Parekh Merely Relies on the Experience and Expertise of Others, Without Providing Any of His Own Expertise, Thereby Violating Federal Rule of Evidence 703.

27. Federal Rule of Evidence 703 provides:

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Fed. R. Evid. 703.

28. Rule 703 does not allow mere recitation of another expert's hearsay conclusions. "Under Rule 703, an expert can testify to opinions based on inadmissible evidence in forming their opinions. . . . The expert may not, however, simply transmit that hearsay to the jury. Instead, *the expert must form his own opinions by applying his extensive experience and a reliable methodology to the inadmissible materials.* Otherwise, the expert is simply repeating hearsay evidence without applying any expertise whatsoever, a practice that allows [the party offering the expert's testimony] to circumvent the rules prohibiting hearsay." *Unites States v. Mejia*, 545 F.3d 179, 197 (2d Cir. 2008) (citations and quotation marks omitted) (emphasis

added); *see also Marvel Characters, Inc. v. Kirby*, 726 F.3d 119, 136 (2d Cir. 2013) (“Although the Rules permit experts some leeway with respect to hearsay evidence, . . . a party cannot call an expert simply as a conduit for introducing hearsay under the guise that the testifying expert used the hearsay as the basis for his testimony.”) (citations and internal quotation marks omitted).

29. Courts in the Second Circuit follow *Mejia* by drawing a distinction between merely *repeating* source materials (not acceptable) and *synthesizing* information from these source materials in order to form an independent expert opinion (acceptable). *See, e.g., Broadspring, Inc. v. Congoo, LLC*, 2014 U.S. Dist. LEXIS 116070, *45-46 (S.D.N.Y. 2014) (“Here, in some portions of his report, [the expert witness] has relied on his specialized knowledge in the field of information security *to synthesize information from his diverse sources and to form an opinion* as to whether FavoriteMan or Netpals were, indeed, spyware. . . . In those respects, his testimony is proper and Plaintiff’s motion [to exclude the expert testimony] is without merit. At other points, however, [the expert witness]’s report crosses the line into *improper regurgitation of hearsay*.”).

30. Dr. Parekh’s testimony is grounded solely in his two and a half years of experience in the mortgage loan industry, and his experience in reviewing approximately 200 loans without the supervision of an experienced mortgage loan reviewer. Parekh Tr. 46:7-12, 112:6-11. Aside from this limited contact with the industry, Dr. Parekh’s opinions are culled together through conversations with actual experts in mortgage loan review from Digital Risk and from his conversations with his more experienced colleagues, Mr. Aronoff and Mr. Sauerwein. Thus, any opinions that Dr. Parekh might offer on the alleged feasibility or potential timing of the proposed Lehman Protocol are irrelevant here and inadmissible under Rules 702 and 703. Accordingly, this purported evidence, whether embodied in Dr. Parekh’s reports or in

trial testimony, should be excluded *in limine*. See *Liberty Media Corp. v. Vivendi Universal, S.A.*, 874 F. Supp. 2d 169, 178 (S.D.N.Y. 2012) (testimony of finance professor and former chief economist of SEC inadmissible where “expert testimony would not be helpful” to resolving the issue in dispute); *United States v. Brooks*, No. 08 Cr. 35, 2008 WL 2332371, at *2 (S.D.N.Y. June 4, 2008) (testimony of financial expert inadmissible where proposed subjects of testimony were irrelevant to the issues in dispute); *In re Rezulin Prods. Liab. Litig.*, 309 F. Supp. 2d 531, 555 (S.D.N.Y. 2004) (testimony of pharmaceutical experts inadmissible where proposed testimony “would not assist the trier to determine a fact in issue”).

CONCLUSION

For the foregoing reasons, Lehman respectfully requests entry of an order *in limine* precluding the Trustees from offering the expert reports from, or testimony of, Dr. Charles Parekh, at trial to the extent that he (1) lacks expertise in any area that would aid the trier of fact, and (2) impermissibly relays the hearsay opinions of other experts, and awarding Lehman such other and further relief as the Court deems just and proper.

Dated: December 9, 2014
New York, NY

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Exhibit A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**Lehman Brothers Holdings, Inc., et al.,
Debtors.**

Case No. 1:08-bk-13555 (SCC)

Chapter 11

Jointly Administered

DECLARATION OF CHARLES A. PAREKH, PH.D.

November 14, 2014

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Attachment I Resume of Charles A. Parekh, Ph.D.

Attachment IIList of Documents Considered

Attachment III.....Time and Cost Associated with Proposed Lehman Protocol

I. Scope of Work

1. I, Charles A. Parekh, Ph.D., have been asked by Alston & Bird LLP, Seward & Kissel LLP, Chapman and Cutler LLP, and Nixon Peabody LLP (“**Law Firms**”), counsel to Wilmington Trust, National Association; Wilmington Trust Company; Law Debenture Trust Company of New York; U.S. Bank, National Association; and Deutsche Bank National Trust Company (“**Trustee Group**” or “**Trustees**”) to provide an analysis of the Lehman Brothers Holdings, Inc. (“**Lehman**”) Plan Administrator’s proposed claims resolution protocol (“**Proposed Lehman Protocol**”) as described in *Lehman Brothers Holdings Inc. ’s (A) Objection to RMBS Trustees’ Motion to (I) Increase the Reserve to \$12.143 Billion and (II) Estimate and Allow Their Claims for Covered Loans at \$12.143 Billion Pursuant to Section 502(c) of the Bankruptcy Code, and (B) Cross-Motion to Establish a Protocol to Resolve Claims Filed by RMBS Trustees* (the “**Cross-Motion**”). The conclusions presented in this Declaration result from work performed by me and by my colleagues at Duff & Phelps, LLC (“**Duff & Phelps**”).

II. Experience and Qualifications

2. I am a Director at Duff & Phelps specializing in the application of economic and statistical analysis to damages, finance, and public policy issues. I have over fourteen years of experience working in dispute consulting and litigation support. My experience includes work in the securities, technology, and education industries.
3. Duff & Phelps is a premier global valuation and corporate finance advisor with expertise in complex valuation, dispute consulting, mergers and acquisitions, and restructuring. The firm’s more than 1,000 employees serve a diverse range of clients from offices in North America, Europe and Asia. Duff & Phelps’ experience includes numerous valuations of RMBS claims related to breaches of representations and warranties, including serving as the RMBS trustees’ financial advisor in the Residential Capital (“**ResCap**”) bankruptcy. Duff & Phelps’ team includes professionals possessing a vast array of expertise in mortgage loan origination, bankruptcy and restructuring, financial forecasting, and statistical analysis.

4. I have led dozens of matters involving the use of statistical and economic modeling in order to calculate damages and losses. My RMBS experience includes leading the statistical and modeling teams in the use of sampling to estimate repurchase liabilities in multiple mortgage-backed securities litigations and bankruptcies, including the ResCap bankruptcy.
5. Additionally, I have extensive experience in applying statistical and economic analysis to litigation issues, including an assessment of the economic efficiency of electronic waste recycling, an analysis of damages from cigarette smoking, an examination of school efficiency and test score performance in New York City Public Schools, a study of school organization and educational outcomes, an evaluation of EPA clean air regulations, and an assessment of U.S. Postal Service pricing strategies. In the past, I provided expert testimony on the statistical evidence involved with randomly testing high school students for drug and alcohol use. In addition, I employed statistical analysis to investigate a whistle-blower complaint alleging the University of Illinois College of Law inflated admissions data, including LSAT scores and GPAs of incoming classes.
6. I hold a Ph.D. concentrating in Public Finance from New York University, as well as a M.P.P. in Public Policy Analysis from the University of Chicago, and a B.A. in Economics from Colgate University.
7. The conclusions set forth in this Declaration are my own and are based on work that I performed, or on work performed by my colleagues at Duff & Phelps under my supervision. In those instances where tasks were performed by my colleagues, I reviewed their work and determined that it was appropriate to rely upon that work.
8. My resume is attached to this Declaration as **Attachment I**.
9. The documents and other evidence considered in forming my conclusions are listed in **Attachment II**. I reserve the right to update this listing.

A. Summary of Conclusions

10. Based on study of the documents and other evidence considered, my experience with RMBS repurchase matters, the experience and knowledge of my colleagues at Duff & Phelps, and my experience, education, and training, I conclude the following:

- Submitting claims employing the Proposed Lehman Protocol would require more than 20 years of professional and Court time and cost over \$100 million dollars.¹

11. A discussion of the bases for my conclusions is set forth in the balance of this Declaration.

III. Time and Cost Associated with the Proposed Lehman Protocol

A. Summary of the Proposed Lehman Protocol

12. The Proposed Lehman Protocol involves the following steps.² This description of the Proposed Lehman Protocol steps is not meant to capture every requirement set forth in the *Cross-Motion*; rather, it depicts five general steps that would require significant time and expense to the Trustees and to Lehman. Requirements of the Proposed Lehman Protocol not presented in this Declaration could add significant time and cost to accomplish, beyond what is covered herein.

- Claim Submission on a loan-by-loan rolling basis [I.a.i-iii];
- The Plan Administrator's review and decision of each Claim Submission [I.b.i];
- Negotiations of claims amounts for claims rejected by the Plan Administrator [I.e];
- Review of rejected and unresolved claims by a Claims Facilitator [I.f-II.f];
- Court review of remaining disputed claims [III.a-d].

¹ My conclusions do not extend to the question of the ability of the Trustees to satisfy the requirement in Part I.a.iii of the Proposed Lehman Protocol that sets a Claim Cut-Off Date of 60 days.

² The Proposed Lehman Protocol is set forth in Exhibit C to the *Cross-Motion*. For the listing of steps, above, I reference specific parts of the Proposed Lehman Protocol in brackets.

B. Scenario 1 and Scenario 2 Time and Cost

13. This Declaration presents two scenarios that estimate the time and cost associated with the Proposed Lehman Protocol. The scenarios employ the same inputs and assumptions (described below and in **Attachment III**); however, they differ in the number of loans modeled to participate in the Proposed Lehman Protocol.
14. Table 1 presents the time and cost associated with the Proposed Lehman Protocol based on claims arising from a universe of 213,974 loans (“**Scenario 1**”). Scenario 1 represents 416,091 Covered Loans in 255 Covered Trusts,³ less any loan that paid-in-full as of June 2014. Paid-in-full loans are removed from the analysis, because no claim arises from these loans. Additionally, the 4,579 loans already reviewed by the Trustees are removed from the number of loans for review.

Table 1: Scenario 1 — Covered Loans Less Loans Paid-in-Full

Number of Loans		213,974
Number of Loans for Review:		209,395
Cost to Trusts to Satisfy Protocol	\$95,734,208 -	\$127,143,458
Cost to Estate to Satisfy Protocol	\$73,877,245 -	\$92,172,318
Total Cost to Satisfy Protocol:	\$169,611,453 -	\$219,315,775
Total Labor-Years Needed to Satisfy Protocol:		55.0
<i>Years Needed to Satisfy Protocol (Running Basis):</i>		
Protocol Process Completes Prior to Court Review		35.7
Court Review Performed Seriatim		27.6

15. In Scenario 1, the total cost to satisfy the Proposed Lehman Protocol ranges from \$170 million to \$219 million and would require nearly 28 years to complete, if the Court is able to rule on claims, seriatim.⁴ If the Court chooses to wait until all claims are ready for its attention, then the required time increases to nearly 36 years. The time and cost estimate includes receiving 209,395 Covered Loans from the servicers, reviewing the loans for breaches, a review of the submitted loans by the Plan Administrator, negotiations over

³ Covered Loans and Covered Trusts are defined in the *Declaration of Charles A. Parekh, Ph.D.*, August 21, 2014 (ECF 46080), p. 1.

⁴ The analysis presented in Scenarios 1 and 2 omits some potentially time-consuming aspects of the Proposed Lehman Protocol, such as the allowance of 30 days for the Claim Facilitator to render a decision on each loan, and the allowance of 20 business days before a party must submit a primer to the Claims Facilitator. Rather, the time estimates presented in Scenarios 1 and 2 assume that the throughput of loans proceeds on a continuous basis.

claims rejected by the Plan Administrator, a review of unresolved claims by the Claim Facilitator, and, finally, a Court review of any unresolved claims for final resolution.

16. Table 2 presents the time and cost associated with a claim based on the subset of Covered Loans that have liquidated with a loss (as of June 2014) plus loans expected to liquidate with a loss in the future (“**Scenario 2**”). While the universe of loans from which a claim may arise is 213,974 active Covered Loans, it is likely that some of these active loans will move from an active to a paid-in-full status. Therefore, even though any Covered Loan with a breach may be eligible for a claim, I have restricted the analysis presented in Scenario 2 to the 161,797 loans that have already suffered a loss or are expected to suffer a loss in the future.

Table 2: Scenario 2 — Covered Loans with a Loss or Projected Loss

Number of Loans			161,797
Number of Loans for Review			157,218
Cost to Trusts to Satisfy Protocol	\$72,110,698	-	\$95,693,398
Cost to Estate to Satisfy Protocol	\$55,862,763	-	\$69,696,702
Total Cost to Satisfy Protocol:	\$127,973,461	-	\$165,390,100
Total Labor-Years Needed to Satisfy Protocol:			42.3
<i>Years Needed to Satisfy Protocol (Running Basis):</i>			
Protocol Process Completes Prior to Court Review			27.0
Court Review Performed Seriatim			21.0

17. In Scenario 2, the total cost to satisfy the Proposed Lehman Protocol ranges from \$128 million to \$165 million and would require 21 years to complete if the Court reviews seriatim and 27 years if the Court waits for the claims process to complete. The time and cost estimate includes receiving 157,218 Covered Loans from the servicers, reviewing the loans for breaches, a review of the submitted loans by the Plan Administrator, negotiations over claims rejected by the Plan Administrator, a review of unresolved claims by the Claim Facilitator, and, finally, a Court review of any unresolved claims for final resolution.

C. Scenario Inputs and Assumptions

18. Both Scenarios 1 and 2 employ several inputs whose values are based, among other things, on my experience with this bankruptcy and other RMBS matters, the experience of my colleagues at Duff & Phelps in this bankruptcy and other RMBS matters, and discussions

with key personnel at the Trustees' loan review firm, Digital Risk, LLC ("**Digital Risk**"). In some cases, the Proposed Lehman Protocol requires steps for which the time and cost is relatively well understood. For example, Digital Risk has already obtained and reviewed a sample of over 4,500 loans, and I am able to base my estimates of loan review time and cost on this previous review.⁵

19. In other cases, estimating the time and cost requires assumptions of Lehman's staff size, costs, and efficiency, which are unknown to me. Additionally, at times, the Proposed Lehman Protocol is ambiguous or unclear to me in its requirements. In these cases, I have made reasonable assumptions based on my experience, and that of my colleagues at Duff & Phelps, in order to illustrate the time and cost associated with the Proposed Lehman Protocol. While I believe these illustrative assumptions are reasonable, I cannot attest to their precision. As such, whenever possible, I have made conservative assumptions or eliminated steps from my analysis altogether, resulting in estimates that are likely to understate the time and cost associated with the Proposed Lehman Protocol.
20. Each Scenario is divided into multiple steps, labeled Step 0 through Step 5. I will discuss each step, in turn.

i. Step 0: Receive Loans from Servicers

21. I make the assumption that the Trustees can request and receive all requested loan files from the applicable servicers within a period of three years. This assumption is based on conversations with Digital Risk, in which I was informed that they received 4,579 of 5,000 requested sample files in approximately 18-20 months.⁶ The number of loans required for review by the Proposed Lehman Protocol is 30 to 40 times greater than the initial request of 5,000 loans, and Digital Risk informs me that such a large request would take substantially longer to fulfill than the initial request.⁷ Because it is not necessary to wait until all the files are received, I make the assumption that after one month, the Trustees would receive a

⁵ Declaration of Charles A. Parekh, Ph.D., August 21, 2014 (ECF 46080), pp. 4-5.

⁶ Interviews with Joe Phillips, Digital Risk.

⁷ Interviews with Joe Phillips, Digital Risk. Mr. Phillips informed me, the time frame assumes the files would arrive, complete and correctly identified, as a single electronic file for each loan file, meaning the files would not require effort to electronically split apart or stitch together. Additionally, it assumes the loan numbers and the servicer file numbers can be readily mapped to each other.

sufficient number of files to begin their review process, and, at no time, does the review queue ever diminish to the point of slowing the review process.

22. The estimated three-year time frame to request and receive files is based on Digital Risk's typical loan file request for the purposes of a review for breaches of representations and warranties. The total time required to receive loan files for the purposes of fulfilling the Proposed Lehman Protocol could be greater than a typical loan file request. The Proposed Lehman Protocol states that a complete RMBS Claim file includes, among other things, 43 separate items from the Mortgage Loan File, Credit File, and Servicing File.⁸ In the Trustees initial request of 5,000 loan files they were unable to obtain all the documents required for a complete RMBS Claim File, as defined in the Proposed Lehman Protocol, for a number of loan files.⁹ In addition, the Trustees were missing all, or substantially all, of 421 of the 5,000 files initially requested.¹⁰ Given the missing documents and missing loan files in the initial request of 5,000 loans, obtaining all the loan files complete with all the documents necessary to comply with the Proposed Lehman Protocol could take significantly longer than three years, if it is possible at all.¹¹

ii. Step 1: Review Remaining Loans

23. As stated above, I assume that the Trustees are able to commence a loan review of either 209,395 loans (Scenario 1) or 157,218 loans (Scenario 2) one month after requesting the loans from the applicable servicers. Based on a conversation with Digital Risk, I use the assumptions that the loan review process would involve 40 reviewers reviewing three loans per day, each, for a total of 120 loans per day, and would work all 251 working days per

⁸ *Cross-Motion*, Exhibit C-1.

⁹ *Declaration of Charles A. Parekh, Ph.D.*, August 21, 2014 (ECF 46080), Attachment IV, and Interviews with Joe Phillips, Digital Risk.

¹⁰ *Declaration of Charles A. Parekh, Ph.D.*, August 21, 2014 (ECF 46080), p. 5.

¹¹ If the documents required by the Proposed Lehman Protocol were not obtained by the originator in the first place, and those missing documents result in a breach determination, the Trustees would not be able to provide those documents in the RMBS Claim file, even though the missing documents constitute the reason for the breach determination.

year.¹² Based on this rate, it would require 7 years (Scenario 1) or 5 years (Scenario 2) to complete the loan review.

24. Digital Risk's current loan review costs are approximately \$400 per loan; however, when the Trustees engaged Digital Risk, their cost per loan was as low as \$250 per loan.¹³ Based on the original cost and on the current cost per loan, I provide a range of costs for the loan review of \$52 million to \$84 million (Scenario 1) or \$39 million to \$63 million (Scenario 2).

iii. Step 2: Plan Administrator Reviews Repurchase Requests

25. Beginning one month into the multi-year loan review process, I assume that the Trustees will begin presenting claims to the Plan Administrator, and the Plan Administrator is able to review claims on a non-stop rolling basis until all the claims have been presented. The Trustees' review of 4,579 randomly-selected Covered Loans determined material breaches in 2,612 Covered Loans, a breach rate of 57%.¹⁴ This breach rate implies that for the entire population of Covered Loans, the Trustees would present claims to the Plan Administrator on 121,967 loans (Scenario 1) or 92,226 loans (Scenario 2).
26. I assume the Plan Administrator would conduct its loan review employing 20 reviewers, reviewing three loans per day, for all 251 annual working days to review these loans, at a cost of \$250 to \$400 per loan. This implies that the Plan Administrator would require eight years and \$30 million to \$49 million (Scenario 1) or six years and \$23 million to \$37 million (Scenario 2) in order to complete its review.
27. Duff & Phelps has reviewed the breaches that determined the 57% material breach rate and has concluded that these breaches represent proper repurchase requests.¹⁵ Based, however, on assertions made by Lehman, I assume the Plan Administrator would challenge some portion of these findings.¹⁶ Consequently, I assume that, of the loans presented to the Plan

¹² Interview with Joe Phillips, Digital Risk. Mr. Phillips informed me that finding more than 20 reviewers would be difficult; however, with enough lead time and significant effort it may be possible to find as many as 40 qualified reviewers. I assume that 40 reviewers are employed throughout the entire review process.

¹³ Interview with Joe Phillips, Digital Risk.

¹⁴ *Declaration of James H. Aronoff*, August 21, 2014 (ECF 46085), p. 12.

¹⁵ *Declaration of James H. Aronoff*, August 21, 2014 (ECF 46085), p. 5.

¹⁶ *Cross-Motion*, p. 32.

Administrator, there would be an initial disagreement on 50% of those loans.¹⁷ This implies that the Plan Administrator would deny claims on 60,984 loans (Scenario 1) or on 46,113 loans (Scenario 2).

iv. Step 3: Trustees Negotiate Declined Repurchase Requests

28. Beginning one month after the Plan Administrator receives and reviews claims, the Trustees and the Plan Administrator would enter into negotiations over the 46,113 to 60,984 denied claims. For these negotiations, I assume that each of the four Trustees can individually, simultaneously, and continually negotiate with Lehman at a rate of ten loans per day, each — or 40 loans per day in total. Based on 251 eight-hour days per year, the negotiations would require six years (Scenario 1) or five years (Scenario 2).
29. The cost of the negotiation is assumed to be \$600 per hour, based on one negotiator on each side charging \$300 per hour, apiece. This results in a total cost of \$29 million (Scenario 1) and \$22 million (Scenario 2). Unlike Steps 0-2, Step 3 involves both the Plan Administrator and the Trustees. Therefore, I allocated the total cost of Step 3 equally between the Trusts and the Estate.¹⁸
30. I assume that negotiations can resolve claims on 25% of the unresolved claims, resulting in 45,738 loans (Scenario 1) or 34,585 loans (Scenario 2) being passed on to the Claim Facilitator for review.

v. Step 4: Claim Facilitator Reviews Unresolved Repurchase Claims

31. For the 34,585 to 45,738 claims unresolved between the Trustees and the Plan Administrator, the Proposed Lehman Protocol requires review by a Claim Facilitator. I assume that one month after Step 3 commences, unresolved claims will begin flowing to the Claim Facilitator. If five facilitators can review ten loans per day, each, for 251 eight-hour

¹⁷ Lehman's expert stated that 40% of loans with breaches would meet the material and adverse standard, implying a disagreement with the Trustees over 60% of the loans. *Declaration of Zachary Trumpp* (ECF 24255), January 12, 2012, pp. 7-8. Compared to Mr. Trumpp's statement that there would be disagreements at a 60% rate, the 50% assumption I use results in fewer loans passed on to Step 3, and thus results in lower time and cost estimates for Step 3.

¹⁸ I have no insight into Lehman's cost structure, and a 50/50 split provides an illustrative allocation of the total cost of Step 3.

days per year, it would require four years (Scenario 1) or three years (Scenario 2) for the Claim Facilitator to review all the remaining claims.

32. The cost for the Claim Facilitation is an hourly rate, per facilitator, of \$500, which is derived from the rate of an experienced arbitrator or attorney who might serve as a facilitator.¹⁹ The total cost of facilitation, therefore, is \$18 million (Scenario 1) or \$14 million (Scenario 2). This cost is allocated evenly between the Trusts and the Estate.²⁰
33. The Scenarios employ the assumption that 75% of the remaining disputed claims are resolved by the Claim Facilitator, and 25% of any remaining claims proceed to the Court for a final (and binding) resolution. This equates to 11,434 loans (Scenario 1) or 8,646 loans (Scenario 2) coming before the Court for a series of hearings to determine breaches and damages on a loan-by-loan basis.

vi. Step 5: Court Reviews for Final Resolution

34. To illustrate the time needed to resolve claims on 8,646 to 11,434 loans I assume that the Court can dedicate one full week each month (a week comprises five eight-hour days) to resolving the disputed claims at a rate of seven loans per day. Based on my experience, and based on discussions with my colleagues at Duff & Phelps, it is not realistic to expect that a Court would be able to review and determine breaches and damages on a loan-by-loan basis at a rate of seven loans per day, but I assume that such an overall brisk rate would be reached if the parties gain experience over the years of review. At this assumed rate, the Court would require 27 years (Scenario 1) or 21 years (Scenario 2) to resolve the remaining claims.
35. The cost of these hearings is based on one attorney and one expert for each side, all billing at a cost of \$750 per hour, for a total of \$3,000 per hour (split evenly between the Trusts and the Estate). The cost considers only time spent in Court and excludes Court costs and any

¹⁹ For example, ADR Services, Inc. publishes hourly rates in the range of approximately \$375-\$600 per hours, plus expenses and fees (<http://www.adrservices.org/rates.php>).

²⁰ The Proposed Lehman Protocol states that the Non-Prevailing Party is responsible for the costs and fees of the Claim Facilitator and of the Prevailing Party, unless or until the court reverses the Claim Facilitator's decision. Because of the uncertainty of such outcomes, I illustrate the cost of Step 4 using an equal split between the parties.

other costs associated with trial. The total cost of trying the remaining claims on a loan-by-loan basis is \$39 million (Scenario 1) and \$30 million (Scenario 2).

36. In terms of when the Court would begin hearing the claims, I provide two assumptions: 1) that the Court hears loans seriatim, beginning Step 5 one month after Step 4 commences, and 2) that the Court waits until completion of Steps 0-4 before beginning the hearings. The assumption does not affect the cost or the total labor hours needed to satisfy the Proposed Lehman Protocol; however, it does shorten the overall time required if the Court proceeds alongside all the other steps.

37. Table 3 summarizes the inputs to Scenario 1 and Scenario 2.

Table 3: Summary of Inputs to Scenario 1 and Scenario 2

Step 0	Receive Loans From Servicers 3 Years to Receive All Loans from Servicers
Step 1	Review Remaining Loans 40 Reviewers 3 Loans Reviewed per Day (Each) 251 Review Days per Year Cost of \$250 to \$400 per Loan
Step 2	Plan Administrator Reviews Repurchase Requests 57% Material Breach Rate 20 Plan Administrator Loan Reviewers 3 Loans Reviewed per Day (Each) 251 Review Days per Year Cost of \$250 to \$400 per Loan
Step 3	Trustees and Plan Administrator Negotiate Declined Repurchase Requests 4 Simultaneous Negotiations (1 Each per Trustee) 251 8 Hour Negotiation Days per Year \$600 Cost per Hour
Step 4	Claim Facilitator Reviews Unresolved Repurchase Claims 5 Facilitators Working Simultaneously 10 Loans per Day Reviewed (Each) 251 8 Hour Negotiation Days per Year \$500 Cost per Hour

Table 3: Summary of Inputs to Scenario 1 and Scenario 2

Step 5	Court Reviews for Final Resolution
	7 Loans Reviewed via Mini-Trial Each Day
	Court Devotes 1 Week per Month (60 8 Hour Days per Year)
	1 Attorney and 1 Expert for Each Side at \$750 per Hour Each (\$3,000 per Hour)

38. Table 4 summarizes the cost allocation for each Step.

Table 4: Cost Allocation Between the Parties

	<u>Trusts</u>	<u>Estate</u>
Step 0: Receive Loans from Servicers	n/a	n/a
Step 1: Review Remaining Loans	100%	0%
Step 2: Plan Administrator Reviews Repurchase Requests	0%	100%
Step 3: Trustees Negotiate Declined Repurchase Requests	50%	50%
Step 4: Claim Facilitator Reviews Unresolved Repurchase Claims	50%	50%
Step 5: Court Reviews for Final Resolution	50%	50%

D. Total Time and Cost

39. Based on the calculations detailed above, the Proposed Lehman Protocol will involve significant investments in terms of time and cost.²¹ Scenario 1 is estimated to require 55 labor-years of effort and would take over 27 years, if every party were to dedicate substantial resources and work continuously on a rolling basis. Scenario 2, which reduces the number of loans on which the claim is based, is estimated to require 42 labor-years and 21 years to complete, on a rolling basis.

40. In addition to multiple decades of professional and Court time, the estimated monetary costs to both the Trusts and the Estate would be sizeable. Scenario 1 would cost the Trusts \$96 million to \$127 million and would cost the Estate \$74 million to \$92 million, totaling \$170 million to \$219 million. Likewise, Scenario 2 would cost the Trusts \$72 million to \$96 million and the Estate \$56 million to \$70 million, totaling \$128 million to \$165 million.

²¹ The effort involved in the Proposed Lehman Protocol is especially high when compared to the time and cost of a claim estimation methodology involving statistical sampling. See *Declaration of Charles A. Parekh, Ph.D.*, August 21, 2014 (ECF 46080), pp. 22-23.

IV. Reservation of Rights and Compensation Disclosure

41. I reserve the right to revise or expand my conclusions to reflect any additional conclusions formulated upon newly acquired information, or arising from reflection and reconsideration of the conclusions based upon views expressed by expert witnesses, upon further study and information, including documentary and testimonial evidence introduced through deposition and trial.
42. Duff & Phelps charges an hourly rate, based on title and experience, for my services and the services of the team working on this analysis. Duff & Phelps' fees are not based, in part, or in whole, upon any conclusions presented in this Declaration, nor are they based, in part or in whole, upon the outcome of any hearings or trials employing this analysis. For this analysis, Duff & Phelps bills my time at an hourly rate of \$810 per hour.
43. This Declaration is not to be reproduced, distributed, disclosed, or used for any purposes other than this Matter without prior written approval.

I declare under penalty of perjury that the foregoing is true and correct.

Executed the 14th day of November 2014, in Chicago, IL

A handwritten signature in black ink, appearing to read "Charles A. Parekh", written over a horizontal line.

Charles A. Parekh

ATTACHMENT I

*Charles Parekh, Ph.D.
Director
Duff & Phelps*

PROFESSIONAL CREDENTIALS

Charles Parekh is a Director at Duff & Phelps specializing in the application of economic and statistical analysis to damages, finance, and public finance issues. He has over fourteen years of experience working in dispute consulting and litigation support. His experience includes work in the securities, technology, and educational industries.

Professional Experience

- Dr. Parekh has led dozens of matters involving the use of statistical and economic modeling in order to calculate damages and losses. He led the statistical modeling teams in multiple engagements employing sampling to estimate repurchase liabilities in multiple mortgage-backed securities litigations and bankruptcies. In addition, his statistical experience includes the sampling of transactions to detect price fixing, the use of regression techniques in internal investigations, and the use of surveys and regressions in order to value intellectual property.
- He has an extensive background in economic and policy analysis including an assessment of the economic efficiency of electronic waste recycling, an analysis of damages from cigarette smoking, an examination of school efficiency and test score performance in New York City Public Schools, a study of school organization and educational outcomes, an evaluation of EPA clean air regulations, and an assessment of U.S. Postal Service pricing strategies.
- Dr. Parekh served as an expert to the Trustees in the Lehman Brothers bankruptcy and provided expert testimony on the statistical need to randomly test students for drugs and alcohol. He also served on the team that investigated a whistle-blower complaint alleging the University of Illinois College of Law inflated admissions data, including LSATs and GPAs of incoming classes. He has also led multiple consulting engagements assisting law schools in reporting their graduate employment statistics.

SELECTED CONSULTING EXPERIENCE:

RMBS Financial Advisory

Project leader of team that performed financial analysis and advisory for the Trustee of a pool of RMBS trusts. Work included sampling and statistical analysis of the mortgage pools, as well as the determination of breaches of representations and warranties of the trust governing agreements.

Lehman Brothers RMBS Bankruptcy

Project leader of team that advised the Trustees of a pool of RMBS trusts throughout the bankruptcy process. Work involved evaluating a sample of loans from several hundred trusts that was selected by the third-party firm and determining the value of the sample for the Trustees' needs. In addition, provided an estimation of claims arising from breaches of representations and warranties.

Residential Capital RMBS Bankruptcy

Led the statistical and economic analysis team tasked with advising the Trustees of a multi-billion dollar pool of RMBS trusts. Work involved statistical sampling of millions of mortgages from nearly hundreds of trusts in order to determine the number and value of repurchase requests due to breaches of trust representations and warranties. Additionally, primarily responsible for managing, preparing, and drafting expert testimony on the statistical analysis performed.

Charles Parekh, Ph.D.
Director
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***Professional
Experience
(continued)***

Need for Random Drug Testing, Loyalsock, PA, School District

Testified in court and submitted a written expert report covering the statistical need to drug test middle and high school students. Analyses included a statistical review of the school district's drug and alcohol incident data and an analysis of the surveys and methodologies used by the school district to justify random testing.

Statistical Fraud Detection

Served as expert consultant for a large options exchange to assist them in the development of a protocol for reviewing and analyzing the Exchange's trading and regulatory data. This protocol assists the exchange in regulatory and enforcement actions and covered methods to monitor, detect, and prosecute violations of Regulation SHO, which aims to prevent unethical traders from engaging in illegal naked short selling practices.

Healthcare False Claims Act

Served as statistical and calculation expert for a healthcare provider accused of submitting false claims for public and private insurance reimbursements. Work included the sampling of hundreds of thousands of invoices for service to determine the level of overpayment and damages associated with overpayments. In addition, the analysis calculated overpayments using multiple forecasting methods.

University of Illinois College of Law Investigation

Served as co-investigator of a whistle-blower complaint alleging the College of Law inflated admissions statistics, including LSATs and GPAs of incoming classes. Also provided recommendations to the College of Law to assist in improving its internal controls and the accuracy of its reporting. Retained in subsequent year to provide a review of the accuracy of externally-reported statistics to the ABA and *US News & World Report*.

Alzheimer Drug Intellectual Property Litigation, Large Pharmaceutical Manufacturer

Calculated damages due to an unjust enrichment claim against client. Disputed economic logic of plaintiff's complaint, and calculated revised past and future earnings from a major Alzheimer drug. Work involved a theoretical and statistical analysis of relevant markets, as well as statistical forecasting of future earnings.

Electronic Waste Recycling Analysis, Consumer Technology Industry Association

Performed an economic analysis of consumer electronic waste recycling legislation in New York City. Work included an economic assessment of the legislation, including both a technical and a theoretical analysis of its economic efficiency, as well as an analysis of related proposals and counter proposals in order to advise client of the best course of action regarding the legislation.

Tobacco Damage Calculation, Several Large Tobacco Manufacturers

Provided economic and strategic consulting to several tobacco manufacturers regarding alleged damages incurred by a group of private and public hospital systems. Assisted clients in disputing the economic logic of claims and provided econometric analysis to support the results.

Charles Parekh, Ph.D.
Director
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***Professional
Experience
(continued)***

Mail Sorting Technology, US Postal Service

Analyzed and prepared written report on the effects of advances in mail sorting technology on mail volume and revenue to determine if technological improvements in scanning and sorting technology resulted in new financial incentives for small mailers.

Postal Pricing Strategies, US Postal Service

Analyzed and prepared written report on several alternative pricing strategies for the Postal Service. These strategies centered on price caps and rate-of-return regulation and were used to justify increases in postal rates.

Electronic Bill Payment and Processing, US Postal Service

Analyzed and prepared written report on the effects of electronic bill payment and presentment (EBPP) on First Class mail volumes. Generated long-term forecasts of the adoption rates of EBPP and its effect on mail volumes, confirming that the shift from paper bill payment to electronic bill payment has had a profound impact on the Postal Service. These forecasts were used to justify increases in postal rates.

Calculation of Damages and Value of Life, USG Corporation

Used demographic and income data to estimate costs of morbidity and mortality related to asbestos exposure. Estimated damages for several thousand individual litigants claiming damages due to exposure. Created value of life models that matched each plaintiff on a case-by-case basis. Analysis was used in expert testimony to support the structuring of a class action settlement.

Economic Analysis of Contract Dispute, Comcast Cable Corporation

Provided economic analysis for Comcast Cable's disputed contract with a large billing vendor. Devised litigation strategy and assisted in writing expert testimony to provide an economic basis for nullification of the contract.

Economic Analysis of Market Concentration, Dean Foods and Suiza Foods

Analyzed local market competitiveness for the merger of Dean Foods and Suiza Foods. Used plant location, plant capacities, and shipping routes to demonstrate that Dean and Suiza did not compete for school milk contracts in specific local markets. Devised alternative measures for market concentration where data was incomplete. Analysis was used in expert testimony to support the case for merging under federal antitrust statutes.

Economic Analysis of Market Substitutes, eBay and PayPal

Conducted economic research regarding market substitutes for PayPal's payment system. Projected ability of market substitutes to compete with PayPal post-acquisition, ultimately demonstrating that the current level of competition would remain virtually unchanged. Analysis was used in expert testimony to support the case for merging under Federal anti-trust and banking laws.

Oil and Gas Intellectual Property Litigation, Large Oil and Gas Well Services Provider

Calculated damages for a large drilling services provider in a dispute and counter suit concerning tools used in the extraction of oil and gas from a well. Analyses included calculation of damages from lost sales, price erosion, and accelerated market entry. Additionally, provided an analysis of reasonable royalties. Provided client with both a Plaintiff and Defendant report.

Charles Parekh, Ph.D.
Director
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***Professional
Experience
(continued)***

Vitamin Price Fixing Litigation, Ralston Purina Corporation

Analyzed price data to demonstrate that several large companies were guilty of price collusion. Also used economic and econometric methods to estimate damages owed due to price collusion. Analysis was used in expert testimony to support the structuring of a class action settlement.

IPO and Underwriter Litigation, Several Large Investment Banks

Performed event study to ascertain if lead underwriters and large brokers were illegally promoting initial public offerings (IPOs). Responsible for determining data sources, assembling data, and conducting analysis of several types of IPO rating schemes used by different underwriters. Analysis was used in expert testimony to support client defense in federal court.

Analysis of the Cost Impacts of Clean Air Regulation, Houston Chamber of Commerce

Analyzed the costs and benefits of Clean Air Act compliance for the greater Houston area and assisted in writing the white paper Cleaning Up Houston's Act: An Economic Evaluation of Alternative Strategies. This white paper was used by the Houston Chamber of Commerce to estimate the total economic costs of compliance and to assist them in applying for an extension of the 2007 deadline.

Antitrust and Competition Analysis of CVS Caremark Merger, Texas Independent Pharmacies

Consulted for several independent pharmacies in Texas to provide a detailed antitrust and competition analysis of the merger between CVS Pharmacy and Caremark, a large pharmaceutical benefits manager. Advised clients on the likelihood of victory in a potential antitrust litigation against CVS Caremark.

Gender Discrimination Litigation, Smith-Barney Corporation

Analyzed hiring, account allocation, and bonus practices of a large brokerage house to evaluate the possibility of gender discrimination. Used econometric analysis to demonstrate that the magnitude of the accusation was not warranted. To respond to the individual cases covered by the legal action, developed different types of analysis for time periods during which certain types of data were not available. Analysis was used in expert testimony to support the structuring of settlement agreements.

PUBLICATIONS, WORKING PAPERS, AND PRESENTATIONS

Presenter, "The Use of Statistical Analysis in Valuation" Illinois CPA Society, Business Valuation Conference, Chicago, IL, May 22, 2013

"Price Erosion Damages: The Use of Regression to Estimate Elasticity of Demand." Working Paper, 2013.

Presenter, How Do Boys and Girls Do? New Evidence on the Gender Gap in New York City Public Schools, American Education Finance & Policy Association 36th Annual Conference, Seattle, WA, March 25, 2011.

"Does School Configuration Matter? Sixth Grade Test Score Performance in New York City" (with Leanna Stiefel and Amy Ellen Schwartz). New York University Working Paper, 2011.

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***Professional
Experience
(continued)***

“How Do Boys and Girls Do? New Evidence on the Gender Gap in New York City Public Schools” New York University Working Paper, 2011.

Three Essays on Grade Configuration, Academic Achievement, and the Gender Gap, Ph.D. Dissertation, New York University, May 12, 2010.

Presenter, School Configuration and Test Score Performance of Sixth Grade Students in New York City Public Schools, American Education Finance Association 33rd Annual Conference, Denver, CO, April 10, 2008.

Presenter, How Should We Organize Primary Schooling? Grade Span, School Size, and Student Academic Performance: Evidence From New York City, Institute of Education Sciences Research Conference, Washington, DC, June 7, 2007.

Presenter, Gender Differences and Test Score Performance in New York City Public Schools, New York University Wagner Graduate School Research Colloquium, New York, NY, March 18, 2007.

“Is a Higher Salary High Enough?: ATI’s COLA Tells All” ModRN Nurse Careers: Career Guide 2007, Spring 2007, p. 84-104.

Discussant Panel, Neighborhood Economic Development Policy, Association of Public Policy and Management Fall Research Conference, Madison, WI, November 2, 2006.

“Is a Higher Salary High Enough?” ModRN Nurse Careers: Career Guide 2006, Spring 2006, p. 48-67.

TESTIMONY EXPERIENCE:

- ***In re: Lehman Brothers Holdings, Inc., et al., Debtors***
United States Bankruptcy Court
Southern District of New York
Case Number 08-13555 (SCC)
August 21, 2014

Provided expert report related to the sampling of mortgage loans in RMBS trusts.
- ***Brian Fagnano v. Loyalsock Township School District***
Court of Common Pleas of Lycoming County, Pennsylvania
Docket Number 11-00908
March 27, 2012

Testified in Court as to the statistical evidence supporting the random drug testing of high school students in Pennsylvania.
- ***Brian Fagnano v. Loyalsock Township School District***
Court of Common Pleas of Lycoming County, Pennsylvania
Docket Number 11-00908
April 11, 2013

Testified in Court as to the statistical evidence supporting the random drug testing of high school students in Pennsylvania.

Charles Parekh, Ph.D.
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Education

Ph.D., (Public Finance), New York University, 2010
M. Phil., (Public Finance), New York University, 2006
M.P.P., (Public Policy Analysis), University of Chicago, 2000
B.A., (Economics), Colgate University, 1997

***Professional
Affiliations***

Member, American Economic Association
Member, Association of Public Policy Analysis and Management
Member, Association for Education Finance and Policy

ATTACHMENT II

Documents Considered

Legal Filings

1. *Lehman Brothers Holdings Inc. 's (A) Objection to RMBS Trustees' Motion to (I) Increase the Reserve to \$12.143 Billion and (II) Estimate and Allow Their Claims for Covered Loans at \$12.143 Billion Pursuant to Section 502(c) of the Bankruptcy Code, and (B) Cross-Motion to Establish a Protocol to Resolve Claims Filed by RMBS Trustees and Exhibits*, October 15, 2014 (ECF 46526).
2. *Joint Motion to Allow/The RMBS Trustees' Motion to (I) Increase the Reserve to \$12.143 Billion and (II) Estimate and Allow Their Claims for Covered Loans at \$12.143 Billion Pursuant to Section 502(c) of the Bankruptcy Code and Exhibits*, August 22, 2014 (ECF 46078).

Declarations

3. *Declaration of Charles A. Parekh, Ph.D.*, August 21, 2014, and Attachments (ECF 46080).
4. *Declaration of James H. Aronoff*, August 21, 2014 (ECF 46085).
5. *Declaration of Zachary Trumpp in Support of Debtors Motion Pursuant to Section 8.4 of the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and Its Affiliated Debtors and Sections 105(a), 502(c) and 1142(b) of the Bankruptcy Code to Estimate the Amounts of Claims filed by Indenture Trustees on Behalf of Issuers of Residential Mortgage-Backed Securities or Purposes of Establishing Reserves*, January 12, 2012 (ECF 24255).

Interviews

6. Interviews with Joe Phillips, Digital Risk, June 10, 2014, and November 12, 2014.

Other

7. All documents listed in Attachment II to the *Declaration of Charles A. Parekh, Ph.D.*, August 21, 2014, (ECF 46080).

ATTACHMENT III

Scenario 1: Covered Loans Less Loans Paid-in-Full

Processes	
Number of Covered Loans	416,091
Number of Covered Loans Less Loans Paid-in-Full	213,974
Loans Requested-to-Date	5,000
Loans Received and Reviewed	4,579
Number of Loans for Review	209,395

Step 0: Receive Loans from Servicers

Years to Receive Loans from Servicers	3.0
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Step 1: [Proposed Lehman Protocol Iai-ii]: Review Remaining Loans

Years to Review Remaining Loans	7.0
Cost to Trusts to Review Remaining Loans	\$52,348,750 - \$83,758,000
Cost to Estate to Review Remaining Loans	\$0 - \$0

Step 2: [Proposed Lehman Protocol Ibi]: Plan Administrator Reviews Repurchase Requests

Number of Requests from Initial Sample	2,612
Number of Additional Requests Submitted	119,355
Total Number of Loans Requested for Repurchase	121,967
Years for Plan Administrator to Review Requests	8.1
Cost to Trusts to Review Requests	\$0 - \$0
Cost to Estate to Review Requests	\$30,491,788 - \$48,786,860
Plan Administrator Agrees to Repurchase	60,984
Plan Administrator Declines to Repurchase	60,984

Step 3: [Proposed Lehman Protocol Ie-f]: Trustees Negotiate Declined Repurchase Requests

Years to Negotiate Declined Repurchase Requests	6.1
Negotiation Results in Resolution	15,246
Cost to Trusts of Negotiation	\$14,636,058
Cost to Estate of Negotiation	\$14,636,058

Step 4: [Proposed Lehman Protocol Ila-f]: Claim Facilitator Reviews Unresolved Repurchase Claims

Loans Sent to Claim Facilitator	45,738
Years for Claim Facilitator to Review Requests	3.6
Claim Facilitator Review Results in Resolution	34,303.26
Cost to Trusts of Claim Facilitator Review	\$9,147,536
Cost to Estate of Claim Facilitator Review	\$9,147,536

Step 5: [Proposed Lehman Protocol IIIa-d]: Court Reviews for Final Resolution

Loans Sent to Court for Final Resolution	11,434
Years for Court to Review Remaining Requests	27.2
Cost to Trusts of Court Review	\$19,601,863
Cost to Estate of Court Review	\$19,601,863

Cost to Trusts to Satisfy Protocol	\$95,734,208 - \$127,143,458
Cost to Estate to Satisfy Protocol	\$73,877,245 - \$92,172,318
TOTAL COST TO SATISFY PROTOCOL	\$169,611,453 - \$219,315,775

TOTAL LABOR-YEARS NEEDED TO SATISFY PROTOCOL	55.0
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Protocol Process Complete Prior to Court Review

YEARS NEEDED TO SATISFY PROTOCOL (RUNNING BASIS)	35.7
---	-------------

Court Review Performed Seriatim

YEARS NEEDED TO SATISFY PROTOCOL (RUNNING BASIS)	27.6
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Notes:

Projected durations assume continuous throughput without scheduling delays or wait times.

Assumptions

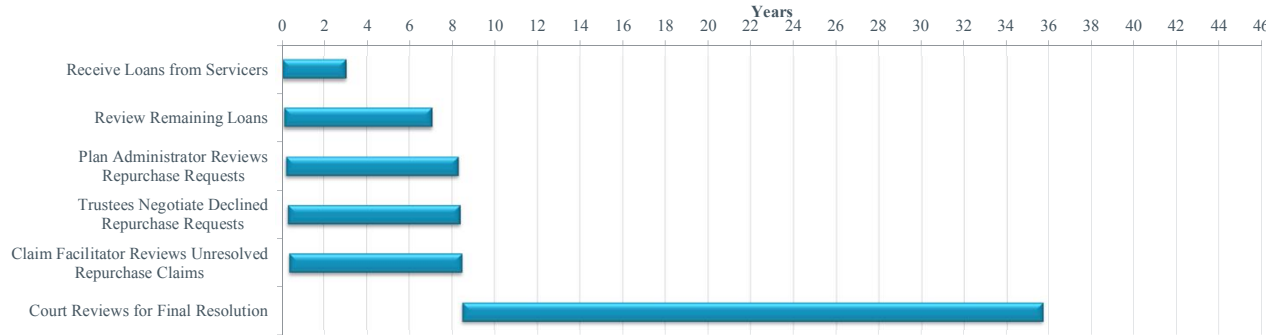
Any Loan that has not Paid Off is Reviewed (as of June 2014)	
3 Years to Receive Loans from Servicers	
40 Reviewers	
3 Loans per Day (Each)	
251 Days per Year	
\$250 - \$400 Cost per Loan (Range)	
100% Cost Attributable to Trusts	
0% Cost Attributable to Estate	
57% Breach Rate from Digital Risk Review Applied to 4,579 Loans	
57% Breach Rate Applied to 209,395 Loans	
20 Reviewers	
3 Loans per Day (Each)	
251 Days per Year	
\$250 - \$400 Cost per Loan (Range)	
0% Cost Attributable to Trusts	
100% Cost Attributable to Estate	
50% Agreed to Repurchase	
50% Disagreed to Repurchase	
4 Trustees	
10 Loans per Day (Each)	
251 8 Hour Days per Year	
25% Percentage Resolved	
\$600 Hourly Rate of Negotiation	
50% Cost Attributable to Trusts	
50% Cost Attributable to Estate	
75% Percentage Unresolved after Negotiation	
5 Facilitators	
10 Loans per Day (Each)	
251 8 Hour Days per Year	
75% Percentage of Requests Settled by CF and PA	
\$500 Hourly Rate	
50% Cost Attributable to Trusts	
50% Cost Attributable to Estate	
25% Percentage of Requests not Settled by CF and PA	
1 Judge	
7 Loans per Day	
60 8 Hour Days per Year (1 Weeks per Month)	
\$3,000 Hourly Rate (Lawyers/Experts)	
50% Cost Attributable to Trusts	
50% Cost Attributable to Estate	

Scenario 1: Covered Loans Less Loans Paid-in-Full

Protocol Process Complete Prior to Court Review

Step	Process	Rate per Month (Capacity)	Progress Rate per Month	Effective Rate per Month	Effective Rate per Year	Process Duration (Years)	Start (Years)*	End (Years)
0	Receive Loans from Servicers	5,817	n/a	5,817	69,798	3.0	0.0	3.0
1	Review Remaining Loans	2,510	5,817	2,510	30,120	7.0	0.1	7.0
2	Plan Administrator Reviews Repurchase Requests	1,255	1,431	1,255	15,060	8.1	0.2	8.3
3	Trustees Negotiate Declined Repurchase Requests	837	628	628	7,530	8.1	0.3	8.3
4	Claim Facilitator Reviews Unresolved Repurchase Claims	1,046	471	471	5,648	8.1	0.3	8.4
5	Court Reviews for Final Resolution	35	118	35	420	27.2	8.4	35.7
Projected Duration:								35.7

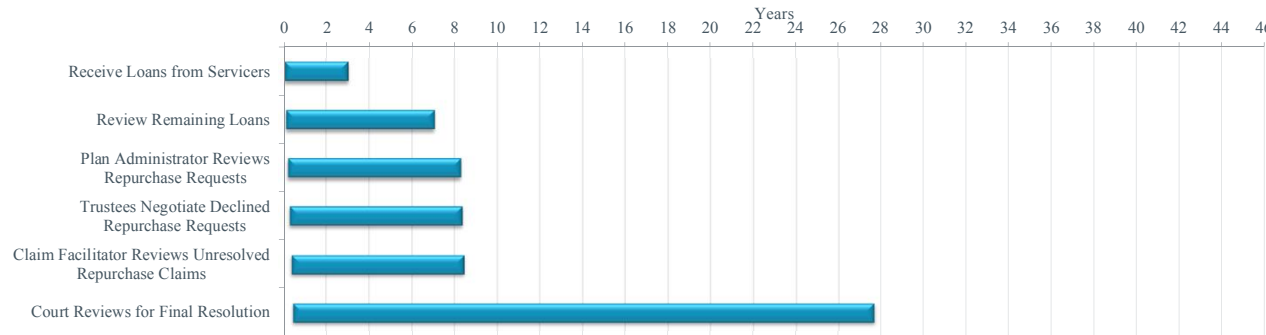
* One month (.08 Year) elapses before each new stage begins.



Court Review Performed Seriatim

Step	Process	Rate per Month (Capacity)	Progress Rate per Month	Effective Rate per Month	Effective Rate per Year	Process Duration (Years)	Start (Years)*	End (Years)
0	Receive Loans from Servicers	5,817	n/a	5,817	69,798	3.0	0.0	3.0
1	Review Remaining Loans	2,510	5,817	2,510	30,120	7.0	0.1	7.0
2	Plan Administrator Reviews Repurchase Requests	1,255	1,431	1,255	15,060	8.1	0.2	8.3
3	Trustees Negotiate Declined Repurchase Requests	837	628	628	7,530	8.1	0.3	8.3
4	Claim Facilitator Reviews Unresolved Repurchase Claims	1,046	471	471	5,648	8.1	0.3	8.4
5	Court Reviews for Final Resolution	35	118	35	420	27.2	0.4	27.6
Projected Duration:								27.6

* One month (.08 Year) elapses before each new stage begins.



Scenario 2: Covered Loans with a Loss or Projected Loss

Processes	
Number of Covered Loans	416,091
Number of Covered Loans with Loss/Expected Loss	161,797
Loans Requested-to-Date	5,000
Loans Received and Reviewed	4,579
Number of Loans for Review	157,218

Step 0: Receive Loans from Servicers

Years to Receive Loans from Servicers	3.0
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Step 1: [Proposed Lehman Protocol Iai-ii]: Review Remaining Loans

Years to Review Remaining Loans	5.2
Cost to Trusts to Review Remaining Loans	\$39,304,500 - \$62,887,200
Cost to Estate to Review Remaining Loans	\$0 - \$0

Step 2: [Proposed Lehman Protocol Ibi]: Plan Administrator Reviews Repurchase Requests

Number of Requests from Initial Sample	2,612
Number of Additional Requests Submitted	89,614
Total Number of Loans Requested for Repurchase	92,226

Years for Plan Administrator to Review Requests	6.1
Cost to Trusts to Review Requests	\$0 - \$0
Cost to Estate to Review Requests	\$23,056,565 - \$36,890,504

Plan Administrator Agrees to Repurchase	46,113
Plan Administrator Declines to Repurchase	46,113

Step 3: [Proposed Lehman Protocol Ie-f]: Trustees Negotiate Declined Repurchase Requests

Years to Negotiate Declined Repurchase Requests	4.6
Negotiation Results in Resolution	11,528
Cost to Trusts of Negotiation	\$11,067,151
Cost to Estate of Negotiation	\$11,067,151

Step 4: [Proposed Lehman Protocol Ila-f]: Claim Facilitator Reviews Unresolved Repurchase Claims

Loans Sent to Claim Facilitator	34,585
Years for Claim Facilitator to Review Requests	2.8
Claim Facilitator Review Results in Resolution	25,938.64
Cost to Trusts of Claim Facilitator Review	\$6,916,970
Cost to Estate of Claim Facilitator Review	\$6,916,970

Step 5: [Proposed Lehman Protocol IIIa-d]: Court Reviews for Final Resolution

Loans Sent to Court for Final Resolution	8,646
Years for Court to Review Remaining Requests	20.6
Cost to Trusts of Court Review	\$14,822,078
Cost to Estate of Court Review	\$14,822,078

Cost to Trusts to Satisfy Protocol	\$72,110,698 - \$95,693,398
Cost to Estate to Satisfy Protocol	\$55,862,763 - \$69,696,702
TOTAL COST TO SATISFY PROTOCOL	\$127,973,461 - \$165,390,100

TOTAL LABOR-YEARS NEEDED TO SATISFY PROTOCOL	42.3
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Protocol Process Complete Prior to Court Review

YEARS NEEDED TO SATISFY PROTOCOL (RUNNING BASIS)	27.0
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Court Review Performed Seriatim

YEARS NEEDED TO SATISFY PROTOCOL (RUNNING BASIS)	21.0
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Notes:

Projected durations assume continuous throughput without scheduling delays or wait times.

Assumptions

Any Loan that has not Paid Off is Reviewed
(as of June 2014)

3 Years to Receive Loans from Servicers

40 Reviewers
3 Loans per Day (Each)
251 Days per Year
\$250 - \$400 Cost per Loan (Range)
100% Cost Attributable to Trusts
0% Cost Attributable to Estate

57% Breach Rate from Digital Risk Review Applied to 4,579 Loans
57% Breach Rate Applied to 157,218 Loans

20 Reviewers
3 Loans per Day (Each)
251 Days per Year
\$250 - \$400 Cost per Loan (Range)
0% Cost Attributable to Trusts
100% Cost Attributable to Estate

50% Agreed to Repurchase
50% Disagreed to Repurchase

4 Trustees
10 Loans per Day (Each)
251 8 Hour Days per Year
25% Percentage Resolved
\$600 Hourly Rate of Negotiation
50% Cost Attributable to Trusts
50% Cost Attributable to Estate

75% Percentage Unresolved after Negotiation
5 Facilitators
10 Loans per Day (Each)
251 8 Hour Days per Year
75% Percentage of Requests Settled by CF and PA
\$500 Hourly Rate
50% Cost Attributable to Trusts
50% Cost Attributable to Estate

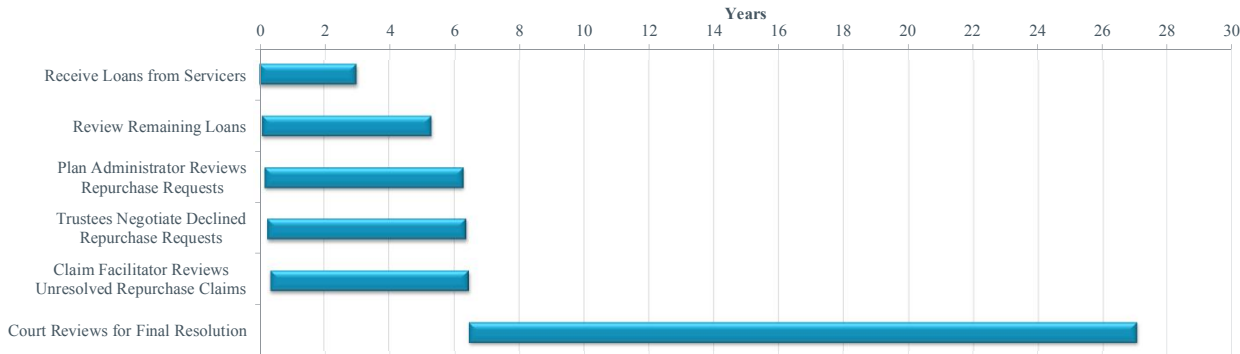
25% Percentage of Requests not Settled by CF and PA
1 Judge
7 Loans per Day
60 8 Hour Days per Year (1 Weeks per Month)
\$3,000 Hourly Rate (Lawyers/Experts)
50% Cost Attributable to Trusts
50% Cost Attributable to Estate

Scenario 2: Covered Loans with a Loss or Projected Loss

Protocol Process Complete Prior to Court Review

Step	Process	Rate per Month (Capacity)	Progress Rate per Month	Effective Rate per Month	Effective Rate per Year	Process Duration (Years)	Start (Years)*	End (Years)
0	Receive Loans from Servicers	4,367	n/a	4,367	52,406	3.0	0.0	3.0
1	Review Remaining Loans	2,510	4,367	2,510	30,120	5.2	0.1	5.3
2	Plan Administrator Reviews Repurchase Requests	1,255	1,431	1,255	15,060	6.1	0.2	6.3
3	Trustees Negotiate Declined Repurchase Requests	837	628	628	7,530	6.1	0.3	6.4
4	Claim Facilitator Reviews Unresolved Repurchase Claims	1,046	471	471	5,648	6.1	0.3	6.5
5	Court Reviews for Final Resolution	35	118	35	420	20.6	6.5	27.0
Projected Duration:								27.0

* One month (.08 Year) elapses before each new stage begins.



Court Review Performed Seriatim

Step	Process	Rate per Month (Capacity)	Progress Rate per Month	Effective Rate per Month	Effective Rate per Year	Process Duration (Years)	Start (Years)*	End (Years)
0	Receive Loans from Servicers	4,367	n/a	4,367	52,406	3.0	0.0	3.0
1	Review Remaining Loans	2,510	4,367	2,510	30,120	5.2	0.1	5.3
2	Plan Administrator Reviews Repurchase Requests	1,255	1,431	1,255	15,060	6.1	0.2	6.3
3	Trustees Negotiate Declined Repurchase Requests	837	628	628	7,530	6.1	0.3	6.4
4	Claim Facilitator Reviews Unresolved Repurchase Claims	1,046	471	471	5,648	6.1	0.3	6.5
5	Court Reviews for Final Resolution	35	118	35	420	20.6	0.4	21.0
Projected Duration:								21.0

* One month (.08 Year) elapses before each new stage begins.

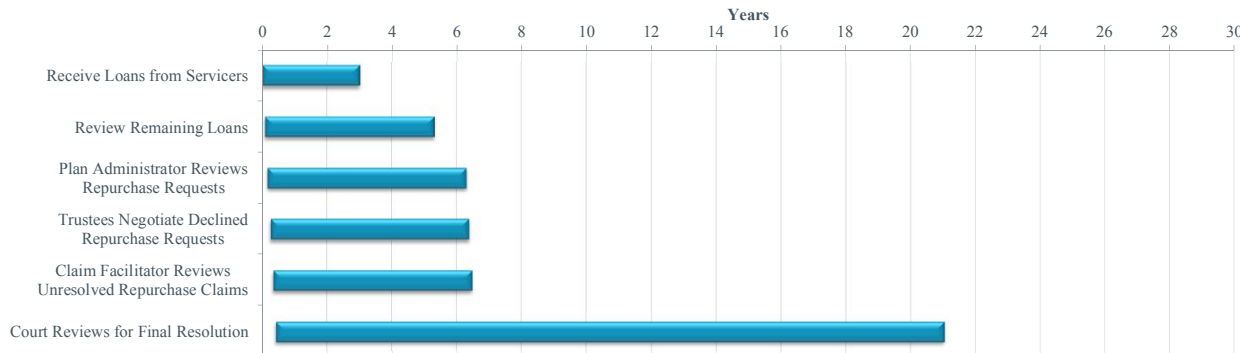


Exhibit B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:)
)Chapter 11
LEHMAN BROTHERS HOLDINGS)
INC., et al,)Case No.
)08-13555
Debtors.)(SCC)
)
)
-----)

DEPOSITION OF CHARLES A. PAREKH, Ph.D.

New York, New York

Friday, December 5, 2014

Reported by:
TAMI H. TAKAHASHI, RPR, CSR
JOB NO. 36918

December 5, 2014

10:05 a.m.

Deposition of CHARLES A. PAREKH,
Ph.D., held at the offices of Seward & Kissel
LLP, One Battery Park Plaza, New York, New
York, pursuant to Notice, before TAMI H.
TAKAHASHI, a Registered Professional Reporter
and Notary Public of the State of New York.

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Holdings Inc. and Certain of its
Affiliates

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Attorneys for U.S. Bank National

Association, as Indenture Trustee

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BY: SCOTT A. LEWIS, ESQ.

slewis@chapman.com

1
2 IT IS HEREBY STIPULATED AND AGREED
3 by and between the attorneys for the
4 respective parties herein, that filing
5 and sealing be and the same are hereby
6 waived.

7 IT IS FURTHER STIPULATED AND AGREED
8 that all objections, except as to the
9 form of the question, shall be reserved
10 to the time of the trial.

11 IT IS FURTHER STIPULATED AND AGREED
12 that the within deposition may be signed
13 and sworn to before any officer
14 authorized to administer an oath, with
15 the same force and effect as if signed
16 and sworn to before the Court.
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(Whereupon, the witness was
administered the oath.)

(Debtors' Exhibit 1, Declaration of
Charles A. Parekh, Ph.D., November 14,
2014, marked for identification as of
this date.)

(Debtors' Exhibit 2, Declaration of
William Alread, December 3, 2014, marked
for identification as of this date.)

(Debtors' Exhibit 3, Declaration of
Craig Pino, December 3, 2014, marked for
identification as of this date.)

C H A R L E S A . P A R E K H , called as
a witness, having been duly sworn by a
Notary Public, was examined and
testified as follows:

EXAMINATION

BY MR. NETZER:

Q. Mr. Parekh, I'm going to put in
front of you a copy of your report for you to
refer to.

A. Thank you.

Q. Why don't I also --

That will be Exhibit 1. I also

1 Parekh
2 have, although I won't have -- refer to them
3 right away, copies of the declarations of
4 Mr. Alread and of Mr. Pino. And I'll put
5 those there, too, but I'll refer to them in
6 due course. But thank you.

7 MR. NETZER: And we have extra
8 copies for anyone who needs them.

9 MR. MUNNO: Could I trouble you,
10 Roger, for his report.

11 MS. HAGGLUND: I'll do it. I got
12 it.

13 MR. NETZER: Thank you.

14 BY MR. NETZER:

15 Q. First of all, Mr. Parekh --

16 A. Yes.

17 Q. -- when were you first engaged by
18 the trustees in connection with Lehman?

19 A. I'm not exactly sure of -- I don't
20 recall the exact date, but it was about two
21 years ago, maybe a little bit more. But
22 about two years ago.

23 Q. And at the time of that engagement,
24 what was your understanding of the dispute,
25 if any, as to how the trustees and Lehman

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Parekh

would resolve issues relating to the
mortgages?

It can be quite summary. I'm not
asking for your --

A. Sure.

I mean, I'm not sure if I
understand there was a dispute. Our -- you
know, my understanding was that I and the
team of Duff & Phelps would work to estimate
a claim, is the way that I would characterize
it.

Q. And so, at the time you were
engaged, that was, generally speaking, the
scope of your engagement, to help estimate
the claims?

A. That was -- that was part of it.
And provide other financial advisory to the
trustees as needed related to the RMBS
claims.

Q. And at that time, what
consideration had been given by the trustees
to the use of a Protocol of some kind in
connection with the claims?

A. Can you help me understand what you

1 Parekh

2 mean by "Protocol"?

3 I'm sorry. I mean, I just want to
4 make sure I'm answering your question. I
5 apologize.

6 Q. You're familiar with the Protocol
7 that you discuss in your expert report?

8 A. Oh, of course, yes.

9 Q. Okay. And is this the first time
10 you've ever seen a Protocol for the analysis
11 of claims like this?

12 A. It's the first time that I've seen
13 a Protocol similar to this, yes.

14 Q. Okay. Is it the first time you've
15 seen a Protocol for sequencing and organizing
16 multiple claims related to mortgages?

17 A. Yes. I think it's -- yeah, it's
18 the first time I've seen a Protocol like that
19 or seen a Protocol for sequencing, as you
20 asked it, and --

21 Q. What -- and so, you've never seen a
22 Protocol before --

23 Before you saw this, the one
24 proposed by Lehman here, you had never seen a
25 Protocol for organizing and sequencing the

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Parekh

analysis of claims related to mortgages; is
that fair?

MR. MUNNO: Just to be clear, I'm
not sure I quite understand the
question. Referring to sequencing in
the manner that the Lehman proposed
Protocol be sequenced?

MR. NETZER: I'll let the question
stand.

MR. MUNNO: You may answer.

A. Well, sure, I've seen -- I've seen
we'll call them "Protocols" in which you
might organize how you're going to review and
understand how a claim might arise out of a
group of loans. But I've never been familiar
with a Protocol that would contemplate
estimating a claim out of -- out of such a
large number of loans that arises from
reviewing every, every loan.

BY MR. NETZER:

Q. Okay. So -- but there were two
things you said. Out of one this size
reviewing. Have you -- are you familiar with
Protocols for the review of every loan of a

1 Parekh

2 smaller size?

3 A. I've heard that some investors may
4 review every loan in a trust that they --
5 that they may be an investor in, but I'm not
6 familiar for what purpose they review that.
7 It may not be for making a claim.

8 Q. Okay. So, but -- so, it's fair to
9 say that you're not familiar with the use of
10 a loan Protocol, of a Protocol for the
11 purposes for organizing and sequencing
12 loans -- sequencing claims related to loans
13 before you saw the Lehman Protocol?

14 A. I think that's fair to say, yes.

15 Q. And that would have been --

16 And when did you first see the
17 loan -- the Lehman Protocol?

18 A. I can't recall exactly, but in the
19 last couple of months when it -- when it was
20 put out by Lehman.

21 Q. Good enough. I'm not asking you to
22 pinpoint the day. Thank you.

23 And so, by that time you had
24 been -- your engagement was, you know, what,
25 20 months, you'd already been working

1 Parekh

2 20 months or so?

3 A. That's correct.

4 Q. What consideration had you and your
5 clients given to what kind of Protocol might
6 be used in this case to advance the claims
7 prior to the time you saw?

8 A. Prior to the time that I saw
9 Lehman's Protocol, the only ways that I
10 had -- and Duff & Phelps had contemplated
11 estimating the claims is through the use of
12 sampling.

13 Now, in another report submitted to
14 the -- to the Court, I estimated the cost of
15 a loan-by-loan -- time and cost of a
16 loan-by-loan review. But I would not
17 characterize that as a Protocol in the sense
18 that Lehman has a Protocol. It was a -- it
19 was an estimate of a -- of a Court review.

20 Q. And that was -- what was that --
21 what -- which report was that?

22 A. That was in -- I can -- if I can
23 just refer to it, because I cited it.

24 Q. That's fine.

25 A. It was my declaration dated

1 Parekh

2 August --

3 Q. Okay.

4 A. -- 21st, 2014.

5 Q. Okay. And prior -- and when --

6 Obviously, the day you submitted
7 it, you had given some thought to it. When
8 had you begun considering the process of
9 estimating a Court review, or however you
10 want to put it, that was the subject of your
11 report in August; how far in advance of it?

12 A. How far in advance? No more than a
13 month prior to filing that.

14 Q. And what precipitated that? I
15 mean --

16 A. What precipitated that?

17 Q. In other words, at some point
18 you or your clients, either you pitched
19 your -- proposed your clients or your clients
20 raised with you whatever the issues were that
21 led to that. I'm asking, what was the
22 precipitating -- what precipitated it?

23 A. I understood from some of the
24 filings in the matter, as well as counsel
25 recounting some of the discussions with

1 Parekh

2 Lehman, that Lehman was proposing or could
3 have been proposing some sort of loan-by-loan
4 estimation of the claim. And so, I -- at
5 that point, I began to think about what that
6 might have involve.

7 Q. Okay. So, is it fair to say that
8 prior to that time, Duff & Phelps had not
9 given any consideration to a loan-by-loan
10 consideration of the claims?

11 A. Prior to that time and over the
12 course of, you know, the last couple of
13 years, I think we have thought about
14 loan-by-loan.

15 Certainly in the ResCap matter in
16 which I was involved, there was at least some
17 discussion about how long it might take to
18 review claims. You know, it was probably --
19 characterized as informal -- I would
20 characterize as informal discussion of how
21 long it might take to estimate a claim from
22 looking at all the loans, but we very quickly
23 dropped any discussion of that as
24 impractical.

25 Q. Why was it impractical?

1 Parekh

2 A. Too long and too costly.

3 Q. How long did you consider it?

4 A. I don't understand -- how long did
5 I consider --

6 Q. Well, this process.

7 A. How long did I consider -- how long
8 did I spend thinking about a loan-by-loan
9 review or how long did I think it would take?

10 Q. The former. Thank you very much.

11 A. The former.

12 Q. How long -- your thinking about it.

13 A. My thinking about it was probably
14 no more than a -- two or three hours total.

15 Q. And who did you discuss it with,
16 either among your colleagues or with your
17 clients?

18 A. I discussed it with counsel at the
19 time, so --

20 Q. Who in particular?

21 MR. MUNNO: Just to be clear, we're
22 talking about ResCap now?

23 THE WITNESS: Yeah, ResCap.

24 BY MR. NETZER:

25 Q. Oh, this was not -- you didn't

1 Parekh

2 discussed it at all -- I'm sorry. I thought
3 you were discussing it since you had done the
4 work on --

5 A. Oh, I apologize.

6 Q. So, the discussions that you're
7 describing were not discussions with the
8 trustees here?

9 A. That is correct, not discussions
10 with the trustees in Lehman.

11 Q. Okay. Now, let's go -- my -- let's
12 go back to an earlier question, then, because
13 I perhaps wasn't clear or perhaps I
14 misunderstood, or both.

15 Prior to the month or so before
16 your August declaration, what consideration
17 had you given to a loan-by-loan analysis of
18 the claims or analysis or prosecution of the
19 claims in this case?

20 A. So, in connection with the -- with
21 the August -- and -- declaration and
22 preparation for submitting that, I gave
23 thought to how long it would take to -- for
24 the -- to -- for the trustees and then the
25 Court to review a group of loans referred to

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Parekh

in my report as the sampling population.

And I spent some hours, and I can't
give you an exact number of hours, prior to
that declaration in thinking about that in
order to write the declaration.

Q. Okay. And --

MR. MUNNO: Can I just get a point
of clarification? You mentioned the
trustees and the Court. Did your
analysis include anybody else?

MR. NETZER: Can I -- I'm sorry.
I'd really appreciate -- hold that
thought, okay? I'd like to finish my
examination.

MR. MUNNO: Sure.

BY MR. NETZER:

Q. The -- when did you first conclude
that a loan-by-loan analysis was not
practical in this case?

A. I don't believe I've -- I don't
believe I concluded that, that a loan-by-loan
review --

Actually, let me -- let me strike
that.

1 Parekh

2 Did you say when?

3 Q. Um-hum.

4 A. I don't -- when I submitted my
5 declarations, I would say that are -- those
6 are my conclusions.

7 Q. And you hadn't reached that
8 conclusion prior to that?

9 A. Not in this matter, because I
10 hadn't considered it prior to that.

11 Q. Okay. So, would it be fair to say
12 then that prior to --

13 When you say your report, you mean
14 the November report or the August report?

15 A. Well, my November report covers the
16 Protocol, so that is a form of loan-by-loan
17 review. And it's -- and in that report I've
18 concluded that the Protocol is not practical.

19 In the August report, what I
20 concluded was that a loan-by-loan review of
21 the sampling population was not practical.

22 Q. And why did you -- why were you
23 asked to opine on whether or not a
24 loan-by-loan review of the sampling
25 population was not practical?

1 Parekh

2 MR. MUNNO: Objection.

3 You may answer.

4 A. I was -- I was asked to analyze
5 those because I think the trustees wanted to
6 understand the time and cost that it would
7 take to engage in such an activity.

8 BY MR. NETZER:

9 Q. But prior to the month or so before
10 August of 2014, you had never discussed with
11 your clients any of the difficulties or
12 impracticalities of conducting a loan-by-loan
13 review, either of the sampling population or
14 of all the loans, correct?

15 A. Well, we've -- we had discussed a
16 loan-by-loan review of a sample of the loans,
17 but I don't recall any discussion of a
18 loan-by-loan -- you know, estimating a claim
19 with a loan-by-loan review of every loan.

20 Q. I'm asking now, I thought your
21 discussion with your clients of the
22 loan-by-loan review of the sampling
23 population was a discussion that commenced a
24 month or so before your August report. Am I
25 wrong about that?

1 Parekh

2 MR. MUNNO: That's not the
3 witness's testimony.

4 MR. NETZER: Right. That's why I'm
5 asking if I'm wrong about it.

6 BY MR. NETZER:

7 Q. When was it that you discussed that
8 first?

9 A. The loan-by-loan review of the
10 sampling population?

11 Q. Yeah.

12 MR. MUNNO: I still have an
13 objection because it presupposes there
14 was a discussion about it --

15 MR. NETZER: He's answering, so
16 you're -- don't -- save your objection.
17 Not while the witness is answering.

18 MR. MUNNO: No, I'm not --

19 MR. NETZER: You can't interrupt
20 the witness. You and I should agree
21 neither of us will do that.

22 BY MR. NETZER:

23 Q. Go ahead, sir.

24 MR. MUNNO: We're not going to
25 agree to that.

1 Parekh

2 MR. NETZER: Good. Okay. That's
3 your way of doing things. I'm not going
4 to interrupt the witness.

5 BY MR. NETZER:

6 Q. Please answer the question.

7 A. Can you please ask your question
8 again.

9 MR. NETZER: That's the problem
10 with getting interrupted, exactly that.

11 MR. MUNNO: We can have it read
12 back.

13 BY MR. NETZER:

14 Q. When was it -- let me just pose a
15 different question.

16 Prior to the discussions that led
17 to your August declaration, discussions which
18 I understood happened in the month before
19 your declaration, what considerations had you
20 given, sir, to a loan-by-loan review of the
21 mortgages here?

22 A. All of the consideration of
23 loan-by-loan reviews would have been in
24 reference to the sampling, a loan-by-loan
25 review of the sampling.

1 Parekh

2 Q. When did you first give
3 consideration to a loan-by-loan review of
4 loans in the sampling?

5 A. Of the loans in the sample? That
6 would have dated back to Duff & Phelps'
7 engagement about two years ago.

8 Q. Okay. And tell me about the
9 consideration you then gave to the
10 possibility of doing a loan-by-loan review of
11 the sample.

12 A. Can you repeat that. I'm not sure
13 I understood it.

14 Q. Sure.

15 At the time --

16 A. I apologize.

17 Q. No, no.

18 At the time of your engagement was
19 when you first gave consideration or had
20 discussions about conducting a loan-by-loan
21 review of the sample, correct?

22 A. Correct.

23 Q. So, the sample had already been
24 selected by then?

25 A. Yes, the sample had already been

1 Parekh

2 selected by then.

3 Q. Now, in connection with that
4 consideration of the loan-by-loan review of
5 the sample, what were your conclusions at
6 that time?

7 MR. MUNNO: Objection.

8 You may answer.

9 A. Well, I don't -- I didn't have any
10 conclusions at the time that those
11 discussions commenced. I had to spend two
12 years studying, you know, roughly the sample
13 and the review and the process that was done,
14 and then I gave those conclusions in my
15 August declaration.

16 BY MR. NETZER:

17 Q. Okay. So, at the time that you
18 began considering the issues that you opine
19 about in your August declaration, you were
20 considering conducting a loan-by-loan review,
21 correct, considering it?

22 MR. MUNNO: Objection.

23 A. No, no, I would not say --

24 I'm not sure what you mean by
25 "loan-by-loan review."

1 Parekh

2 If for some reason someone wants to
3 review three loans and they look at one loan,
4 then they look at the next loan, look at the
5 third loan, that -- that's a loan-by-loan
6 review of three loans.

7 What I would say that the sample
8 involved was a loan-by-loan review of the
9 5,000 loans in the sample. That's different
10 than estimating a claim on a loan-by-loan
11 basis which is what the Protocol, in my
12 understanding, contemplates.

13 Q. So, did you ever consider doing
14 a --

15 What consideration did you give to
16 engaging in a loan-by-loan -- by estimating a
17 claim on a loan-by-loan basis?

18 MR. MUNNO: Objection.

19 You may answer.

20 A. That -- what consideration did I
21 give?

22 BY MR. NETZER:

23 Q. Yes.

24 A. I would have considered how many
25 loans there are, how long it takes, how long

1 Parekh

2 it -- you know, how much it cost. These
3 are the types of considerations I gave in my
4 November declaration.

5 Q. Okay. And when did you first
6 consider those?

7 A. Well, when we were first engaged, I
8 would have looked at the total number of
9 loans and at least to myself considered that
10 that's a large number of loans, and let me
11 start thinking about a sample that could --
12 that could estimate a claim.

13 And then I would have considered
14 for my August declaration what it would take
15 to review the 149,000 or so loans in the --
16 in the sampling population. And then in
17 drafting my November declaration, I would
18 have considered that in relation to the
19 Protocol.

20 Q. Okay. So, taking you -- and
21 that --

22 So, the consideration you gave in
23 connection with your August declaration would
24 have been in the month or so before the
25 August declaration, correct?

1 Parekh

2 A. Correct.

3 Q. All right. I just want to --

4 So, the only consideration, then,
5 is it fair to say that you gave to a
6 loan-by-loan review of all the loans was what
7 you just testified to in your answer about --

8 I want to use your words. You
9 said, "When we were first engaged, I would
10 have looked at the total number of loans and
11 at least to myself considered that that's a
12 large number of loans, and let me start
13 thinking about a sample that could -- that
14 could estimate a claim." I'm just reading
15 from your previous answer.

16 Was there any other -- is that the
17 full extent of your thinking on the subject
18 before August or July of 2014? Anything you
19 want to add?

20 A. That's what I recall at this time.
21 But let me be clear. "Considered" is a -- is
22 a -- is a broad word, and I don't want to
23 overstate, you know, or understate. These
24 are thoughts that went through my head that I
25 recall, but there may be others. So --

1 Parekh

2 Q. Yeah. And to the extent there are
3 others that you can recall, tell me now.

4 A. I can't recall any other times now.

5 Q. Did you have any discussions with
6 anyone in which you expressed the thought
7 that you've just expressed here?

8 A. Well, in preparation for my August
9 declaration and in preparation for my
10 November declaration, there would have been
11 discussions amongst my colleagues at Duff &
12 Phelps and as well as with counsel.

13 Q. Okay. So, but at the time, no
14 discussions? That is at the time you were
15 engaged.

16 A. At the time I was engaged, I can't
17 recall having any discussions with anyone
18 that would have related to a loan-by-loan
19 review to estimate the claims.

20 Q. And that would be true also from
21 the time of your engagement till July or so
22 when you began the preparation for the August
23 declaration?

24 A. That's correct.

25 Q. And during that same period, from

Parekh

your engagement to the time you began
preparing the August declaration, what
consideration did you give for -- with
respect to a Protocol for analyzing the loans
and prosecuting any claims based on them?

MR. MUNNO: Objection.

You may answer.

A. Well, I want to make sure that
we agree on what a "Protocol" is. If a
Protocol is a set of instructions that
somebody needs to follow, the trustees' team,
including Duff & Phelps, would have had a
Protocol to estimate a claim through the use
of a sample.

BY MR. NETZER:

Q. Putting aside the use of a sample,
then --

A. Okay.

Q. -- did you consider any other
Protocol?

A. Not prior to July or so of 2014.
No other Protocol that would have involved a
loan-by-loan estimation of using all of the
loans or, you know, all of the applicable,

1 Parekh

2 you know, covered loans.

3 Q. And why didn't you discuss that
4 with your clients?

5 MR. MUNNO: Objection.

6 You may answer.

7 A. I didn't discuss it because I
8 didn't ever consider it being a practical way
9 of estimating a claim. And it's not one that
10 I am familiar with and -- and -- well, it's
11 not one that I'm familiar with having been
12 done before.

13 BY MR. NETZER:

14 Q. Has it never been done before?

15 A. I don't know.

16 Q. So, even now you're not familiar
17 with any -- withdrawn.

18 And what led to your view -- why
19 didn't you consider it practical?

20 A. It would take too long and cost too
21 much.

22 Q. How long would it take, how much
23 would it cost?

24 A. How long --

25 Q. This is back -- I'm not asking you

1 Parekh

2 now about your November declaration. I'm --
3 this is in connection with the reason why you
4 didn't consider it prior to July or August --

5 A. I can't tell you --

6 Q. -- of 2014.

7 A. Okay. I'm sorry.

8 Q. No, no.

9 A. I didn't mean to interrupt.

10 Q. You knew where I was going and so
11 you were interrupting, but we do have to
12 be -- she can't take us both down at the same
13 time. But you have the right idea.

14 A. That being said, I did interrupt
15 and I missed the dates that you asked. Do
16 you mind --

17 Q. Prior to preparing -- and I'm using
18 July of 2014 because you said it was roughly
19 a month, so I'm not trying to pin you down on
20 that exactly.

21 Prior to July of 2014, what made
22 you think that it was not practical?

23 A. And I think I said it would take
24 too long and cost too much.

25 Q. I thought I asked another question

1 Parekh

2 after that.

3 MR. MUNNO: You did. You asked him
4 how much and how long.

5 MR. NETZER: Thank you very much.
6 I'm not seeing it in the Live Note.

7 A. I didn't consider any specific
8 amount but, given the number of loans, my
9 immediate thought would have been it would
10 have taken years and much, much more time and
11 cost than sampling would.

12 BY MR. NETZER:

13 Q. Okay. And apart from what -- and
14 can you elaborate on -- is there anything
15 else you did other than having that thought
16 to reach the conclusion that it would be
17 impractical?

18 A. I had the thought -- and I don't
19 know if you would consider that something I
20 did, but I had the thought that given a
21 choice between a sampling methodology and
22 something that involved reviewing every
23 single loan, it's impractical because the
24 sampling methodology allows you to arrive at
25 claim with far less cost and effort. So --

1 Parekh

2 Q. Fair enough.

3 A. -- that would have been --

4 Q. That would have been the thought?

5 A. That would have been the thought.

6 Q. That counts and -- within my
7 question, I mean.

8 And the choice you mentioned, did
9 you present that choice as options or
10 alternatives for your client?

11 A. I don't -- I don't recall any
12 discussions.

13 Q. Did your clients ask you to
14 consider those two options?

15 A. I don't recall that they did.

16 Q. Prior to July or August of 2014,
17 what, if any, discussions did you have with
18 the trustees about doing a loan-by-loan
19 analysis and prosecution of claims?

20 A. I don't recall any.

21 Q. To the best of your recollection,
22 was there any such discussion?

23 A. There may have been such
24 discussions, but I wasn't -- I don't recall
25 being involved in any personally.

1 Parekh

2 Q. Okay. What has -- what did your
3 clients tell you about their own assessment
4 of the use of a Protocol to analyze and
5 prosecute -- to analyze the loans and
6 prosecute claims with respect to them?

7 MR. MUNNO: Objection.

8 You may answer.

9 A. Generally, the clients expressed
10 what I would characterize as disbelief in an
11 ability to do a loan-by-loan review
12 practically.

13 BY MR. NETZER:

14 Q. Okay. And what was their basis for
15 their disbelief?

16 A. I don't think I can answer what was
17 in their head, but some of the things that
18 were expressed to me is there are a lot of
19 loans and it would take a long, long time to
20 go through this and it would cost a lot of
21 time. And potentially, you know, have all
22 sorts of logistical problems that may even
23 prevent them from even being able to do it in
24 the first place.

25 Q. Okay. And they had experience with

1 Parekh

2 using a sample method? Your clients, I mean,
3 the trustees.

4 A. At least some of the trustees had
5 an experience because we worked -- "we" being
6 Duff & Phelps and I -- worked with them in
7 ResCap. And we used a sample there. I don't
8 know if all of the clients have, but I know
9 that certainly many of the -- many of the
10 clients and the ones I would call active and
11 core attorneys were also involved in ResCap.

12 Q. And what consideration -- and did
13 you discuss the ResCap process with your
14 clients in this case? I mean, did you
15 discuss -- in connection with this case, did
16 you discuss with the trustees their
17 experience and your experience in ResCap?

18 A. Certainly, in general terms. And
19 the reason I hesitate is much of my
20 involvement with ResCap is subject to
21 mediation privilege. And I'll -- I'd have to
22 get some guidance on whether -- you know, how
23 much detail I can speak about this
24 deposition.

25 But certainly --

1 Parekh

2 Q. I'm only asking about your
3 discussions --

4 A. With?

5 Q. -- with the trustees in this case.

6 A. In that case?

7 Q. About ResCap.

8 A. About ResCap. We discussed our
9 experiences in ResCap.

10 Q. I'm sorry. I said I wouldn't
11 interrupt and I did.

12 A. I'll forgive you.

13 So, what was your question, though?
14 I didn't actually hear it.

15 Q. When were those discussions?

16 A. At various points over the last two
17 years. I can't recall any specific time that
18 they would have happened, but it would have
19 been a topic of discussion over the last two
20 years.

21 Q. And was one of the topics of
22 discussion whether or not to use a sample
23 versus a loan-by-loan approach?

24 A. That did come up, but after July.

25 Q. Fair enough. Thank you for --

1 Parekh

2 you're right, that was what I was focusing
3 on. Thank you.

4 Footnote -- on page 3 of your
5 report, which is Exhibit 1 --

6 A. Um-hum.

7 Q. -- you referenced the fact that
8 your conclusion -- footnote referenced the
9 fact that your conclusions did not extend to
10 the question of "the ability of the Trustees
11 to satisfy the requirement in Part 1.a.iii of
12 the Proposed Lehman Protocol that sets a
13 claim Cut-Off Date of 60 days."

14 Do you see that?

15 A. I do.

16 Q. Have you not given consideration to
17 that?

18 A. I've given consideration to it. I
19 didn't include it in the analysis in my
20 declaration.

21 Q. What was your conclusion, or
22 what --

23 A. What was my consideration?

24 Q. Thank you. If you reached a
25 conclusion, tell me what it was.

1 Parekh

2 A. Sure.

3 So, the 60-day claim cutoff, which
4 I find it highly impractical that the
5 trustees could make all their claims within
6 60 days based on a couple of things.

7 One, I think it would take more
8 than 60 days just to get all the loans from
9 the servicers, and then to review them and
10 put together the claim packet that's required
11 by the Protocol with the 43 document groups,
12 all of that, just I didn't think it was
13 practical -- you know, I don't think it's
14 practical that could be done all within 60
15 days.

16 Q. Okay. Why didn't you -- why did
17 you omit it from your report?

18 A. I omitted it from my report because
19 I was trying to estimate the time and cost of
20 the report and not --

21 Q. The Protocol?

22 A. I'm sorry. Of the Protocol.

23 And this was a step that did not
24 have a time limit -- at least did not have a
25 cost associated with it, and it was -- it was

1 Parekh

2 really part of step zero of the -- of my --
3 of my analysis, which is, you know, prior to
4 the -- to the Protocol.

5 Q. Okay. So, you didn't do a
6 full-blown analysis, although you have a view
7 as to whether it would be practical or not?

8 A. I have a view as to whether it
9 would be practical.

10 Q. But you, in fact, did not do an
11 expert analysis of that for purposes of
12 this -- of this report?

13 A. Of this report, no.

14 Q. Okay.

15 A. As I think I wrote there.

16 Q. You did. Indeed, you did.

17 Sometimes I repeat things --

18 A. That's fine.

19 Q. -- pedantically, but just trying to
20 nail a few things down.

21 Can you go to page 5 of your report
22 to the Scenario Inputs and Assumptions
23 section, paragraph 18, which carries over
24 onto page 6. I have a question about that.

25 A. Okay, I'm there.

1 Parekh

2 Q. Okay.

3 You reference the Trustees' loan
4 firm, Digital Risk.

5 A. Yes.

6 Q. And have you worked with Digital
7 Risk in the past prior to working with them
8 in connection with this case?

9 A. I have not. Others at Duff &
10 Phelps have.

11 Q. Okay. And what is a --

12 You call them a "loan review firm."
13 Can you for the record state what a loan
14 review firm is and does?

15 A. A loan review firm is a firm that
16 specializes in the reunderwriting of loans
17 for the purposes of reviewing for breaches of
18 reps and warranties. They may do other
19 things, but that's how I see a loan review
20 firm in this matter.

21 Q. Okay. And when did loan review
22 firms begin doing this kind of work?

23 MR. MUNNO: Objection.

24 You may answer.

25 A. I don't know when they began doing

1 Parekh

2 this kind of work.

3 BY MR. NETZER:

4 Q. Is this a new industry or has it
5 been around for a while?

6 A. I couldn't answer when -- if it's
7 been around a while or not. I mean, I have
8 to imagine that in -- you know, there have
9 been mortgage loans for quite some time. And
10 so, in some form or another, there may have
11 been someone reviewing loans. But my
12 familiarity dates back, you know, to about
13 two and a half years ago with --

14 Q. What happens --

15 MR. MUNNO: Let him finish.

16 A. -- with loan review firms.

17 BY MR. NETZER:

18 Q. Oh, I'm sorry.

19 A. With loan review firms.

20 But given that I have colleagues
21 with, you know, many, many years of expertise
22 with the mortgage industry, you know, I would
23 have to assume that in some form or another
24 there may have been loan reviewers. But I
25 don't know how far back it goes that there

1 Parekh

2 are firms that specialize in reviewing
3 mortgages for reps and warranties breaches.

4 Q. Who are the other loan review firms
5 besides Digital Risk?

6 A. That I'm familiar with? I can't
7 tell you all of them. I'm familiar with
8 Barrant Group, Edge Mac, Recovco, Cross Check
9 Compliance. There are others, I imagine
10 there are firms. And I'm not familiar with,
11 you know, their sizes or anything like that,
12 but those are the names of some that I can
13 recall right now that I'm familiar with.

14 Q. What work did you -- what work have
15 you done with those, the ones you just
16 testified about, not including Digital Risk?

17 A. With some of those firms, I have
18 participated in forensic loan reviews. The
19 only one that I -- that is disclosed is
20 Cross Check Compliance was the loan review
21 firm hired by the trustees in ResCap.

22 Q. And what was your -- what
23 experience have you had with the others?

24 A. With some of those, Edge Mac,
25 Barrant, Recovco, I or others at my firm have

1 Parekh

2 participated in loan reviews with those
3 firms.

4 Q. For the moment, I'd like to focus
5 just on you.

6 A. Um-hum.

7 Q. What experience have you had with
8 the firms other than Digital and -- apart
9 from Digital and was it Cross Check?

10 A. It was Cross Check. And it was the
11 one I mentioned in ResCap.

12 Q. Okay. Apart from those two, I'm
13 now asking you, sir, what experience have you
14 had with these -- with other loan review
15 firms?

16 A. So, those are -- those are loan
17 review firms who have been hired in trustee
18 matters in which I've worked to do the
19 forensic reviews. And my experience has
20 to -- has been to sit alongside with them,
21 review some portion of the loans personally
22 so I could have a better understanding of
23 what's going on, look at their results and
24 employ their results in estimating sometimes
25 bankruptcy claims, damages claims, all

1 Parekh

2 related to RMBS, you know, securities that
3 have loans with breaches.

4 Q. And which are the firms that you've
5 worked with besides Digital and Cross Check?

6 A. I've worked with Edge Mac, I've
7 worked Barrent Group. Those are the other
8 two that I have personally worked with.

9 Q. And who are the people you worked
10 with at Edge Mac? Who in particular? Who,
11 the individuals, I mean.

12 A. Yeah, the individuals, I can't
13 recall the name now.

14 Q. How about at Barrent Group?

15 A. Again, I can't recall the name of
16 the person at Barrant Group.

17 Q. Or could you give me any references
18 who would be familiar with you at either of
19 those firms?

20 A. Well, the head of Edge Mac would be
21 familiar with me. Barrent Group, I can't
22 recall speaking to anyone there. I would
23 have reviewed their results and reviewed
24 loans that they had reviewed and -- but they
25 likely would have just communicated with the

1 Parekh

2 trustee or with counsel.

3 Q. Okay. And -- but you say the head
4 of Edge Mac?

5 A. Yes, I've spoken to her.

6 Q. About what?

7 A. About the loan reviews and the
8 results and --

9 Oh, there's one more also that I
10 recall now. It's called Investors
11 Consulting. And I've worked with them as
12 well, a man named Dave Pilowsky.

13 Q. Okay. What is the name of the
14 woman at Edge Mac?

15 A. I can't -- that's the name I can't
16 recall.

17 Q. Oh, you can't.

18 A. I have to go look it up. But I've
19 had multiple conversations with her and, you
20 know, counsel in this matter.

21 Q. Counsel in this matter?

22 A. No, no, not this matter. That
23 matter. Sorry.

24 Q. That's okay.

25 A. That was a misuse of "this" and

1 Parekh

2 "that."

3 Q. Don't worry.

4 Okay. And what -- when did you
5 first become involved in the mortgage
6 industry?

7 A. I first became involved in RMBS
8 matters about two and a half years ago.

9 Q. I was asking now in the mortgage
10 industry in general.

11 A. That would be the same answer,
12 about two and a half years ago.

13 Q. And how did that come about?

14 A. With my retention and my firm's
15 retention in ResCap.

16 Q. And what experience do you have,
17 you individually have, with doing a
18 loan-by-loan analysis of mortgages in a
19 portfolio?

20 A. Well, I've reviewed mortgage loans
21 files for breaches of reps and warranties.

22 Q. Okay. And how many? You know, you
23 can estimate.

24 A. In total, several hundred, less
25 than a thousand.

1 Parekh

2 Q. And when was the first time you did
3 that?

4 A. In connection with the ResCap
5 matter, about two and a half years ago.

6 Q. Okay. And your role was to review
7 specific loans, or were you overseeing a team
8 of people working on loans or how did -- what
9 was your role?

10 A. Both. I was overseeing a team and,
11 as part of that oversight, I reviewed loans
12 and I was -- I was trained by those at
13 Cross Check Compliance and the ResCap on how
14 they review loans. And I participated in the
15 process for a few hundred loans --

16 Q. Go ahead.

17 A. -- in order to better have an
18 understanding of timing and cost so that we
19 could, you know, make sure to do our job
20 expeditiously and efficiently. And
21 accurately. Sorry.

22 Q. When you say "our job," what is
23 "our job"?

24 A. Our job is ResCap was to assist the
25 trustees in estimating their claim in that

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Parekh

bankruptcy. And part of that would have been
estimating the number of breaches and reps
and warranties.

Q. Okay. And when you say you
participated, can you elaborate or tell me
what your participation consisted of?

A. Yeah. I sat --

Well, in terms of the overall
bankruptcy or the -- or specifically the loan
review?

Q. Well, I was referring to what you
said earlier about "I participated in the
process for a few hundred loans." That.

A. Okay.

So, for the loan review, I sat in
front of a computer screen with loan files,
and I went through loan files page by page
with a -- you know, an experienced reviewer
sitting next to me. And he or she, depending
on who it was, would show me what they do and
what they look for and how they get the
results.

And then eventually I started
reviewing, you know, some loans on my own to

1 Parekh

2 make sure that I got the same results that
3 the Cross Check reviewers were getting.

4 Q. Okay. And how many did you do on
5 your own?

6 A. Probably about 200 on my own
7 without any supervision.

8 Q. Okay. And what became -- those
9 loans, were they made the subject of a claim?

10 A. They were -- they were part of the
11 sample that estimated the claim.

12 Q. And what happened with respect to
13 those particular loans that you reviewed in
14 connection --

15 A. I don't know what you mean by "what
16 happened to them."

17 Q. Well, after you finished your
18 review --

19 A. Um-hum.

20 Q. -- they became part of a sample
21 that was part of an estimation process,
22 correct?

23 A. Well, they were already part of a
24 sample. That's why I reviewed them.

25 Q. And what happened to the ones that

1 Parekh

2 you reviewed after your review? I mean, what
3 happened in the process?

4 A. What happened in the process was
5 the results from those loans would get
6 tallied into the overall results from the
7 sample and then that -- those results, along
8 with the results of all the other loans in
9 the sample, were used to estimate the claim.

10 Q. Okay. Do you remember in
11 particular what use was made of the loans you
12 had reviewed in connection with the
13 estimation of the claims?

14 A. They contributed to the -- those
15 particular loans contributed to the -- to the
16 overall results.

17 Q. And how? How did those particular
18 loans contribute?

19 A. Well, if there was a breach -- and
20 I can't recall of those loans how many had a
21 breach. But if there was a breach, then that
22 loan was tallied as having a breach.

23 Q. And you were involved in the
24 prosecution of the claim in connection with
25 the sample, correct?

1 Parekh

2 MR. MUNNO: Objection.

3 You may answer.

4 A. I was involved in the estimation of
5 the claim. And I guess the prosecution of
6 the claim was done by the counsel, and I was
7 retained by counsel and assisting counsel.

8 BY MR. NETZER:

9 Q. Okay. Let's go back to paragraph
10 18 now.

11 A. Um-hum.

12 Q. You spoke with key personnel at the
13 trustees' loan review firm --

14 A. Um-hum.

15 Q. -- concerning the subjects that you
16 opine about. Who in particular at Digital
17 Risk did you talk to?

18 A. In particular, it would have been
19 Joe Phillips, who has a --

20 Well, in particular, it would have
21 been Joe Phillips, but I also went to Digital
22 Risk and spent, I think, a couple of days
23 there and to better understand their process.
24 And in that time I spoke to other people --
25 you know, met and spoke to other people. The

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Parekh

only one I can specifically remember was a
loan fulfillment manager whose name was
Hector. And I can't recall his last name.
But Joe Phillips would have been the
primary --

Q. Okay. And when --

A. -- contact.

Q. When was it that you spoke to
Mr. Phillips and visited Digital for a couple
of days?

A. Oh, I would say it must have been
in the -- in a spring or summer because it
was warm there in Orlando when we met with
them.

So, it's always warm. It would
have been closer to -- well, when we visited
would have been closer to our initial
engagement. So, maybe a year and a half ago,
maybe even up to, you know, closer to two
years ago.

And then I spoke with Joe Phillips
prior to filing both my August report and my
November -- August declaration and my
November declaration, as well as I spoke to

1 Parekh

2 him on the phone.

3 Q. Okay. And why did you speak to him
4 as opposed to anyone else? That is, I'm
5 talking about in connection with your
6 reports.

7 A. Yeah, I spoke to him because he is
8 our -- he was -- served as our primary point
9 of contact and -- with Digital Risk. And so,
10 he was the person that we would call if we
11 needed to speak with Digital Risk.

12 Q. Okay. And what is his role?

13 A. His role is managerial, you know,
14 both process and business. I can't recall
15 his exact title, but --

16 Q. What does he do?

17 A. He -- for us, he oversaw the
18 Digital Risk loan review forensic
19 reunderwriting process.

20 Q. Who was it who came up with the
21 sample?

22 A. A firm called Cowen & Company.

23 Q. And you spoke to them, too?

24 A. I have spoken with them, as well.

25 Q. Now, when you spoke to Digital Risk

1 Parekh

2 about estimating --

3 You spoke to Digital Risk, did you
4 not, about estimating the time and cost
5 required for a loan review, correct?

6 A. That is correct.

7 Q. Okay. Did you speak to any other
8 loan companies about that?

9 A. Not in connection with this matter.

10 Q. I'm talking about the -- thank you.
11 I'm now talking specifically about the trust,
12 on behalf of the trustees.

13 A. In the Lehman bankruptcy.

14 Q. Well, have you talked with -- yes.

15 A. The -- okay.

16 Q. Did you talk with any other loan
17 companies?

18 MR. MUNNO: In connection with the
19 Lehman matter that we're talking about
20 or other matters?

21 MR. NETZER: In the Lehman
22 bankruptcy, yes.

23 BY MR. NETZER:

24 Q. In connection with the Lehman
25 bankruptcy, did you discuss estimating loan

1 Parekh

2 review time and cost with anyone other than
3 Digital?

4 A. No one other than Digital Risk in
5 connection with the Lehman bankruptcy.

6 Q. Why not?

7 A. Because Digital Risk is the firm
8 that the trustees selected to do their loan
9 review. It's the only firm that, in
10 connection with these loans and this
11 bankruptcy, we had diligenced their process.
12 And so their estimates seemed the most --
13 would be the most relevant because, in my
14 estimation, they would be the ones that could
15 perform this review.

16 Q. Do you have any reason to believe
17 that other loan companies could not do the
18 review more cheaply or more quickly?

19 A. I don't believe it would be
20 reasonable for other loan companies to do the
21 review more cheaply or more quickly based on,
22 you know, my experience with other loan
23 review firms as well as, you know, the
24 experience of loan reviews and loan review
25 firms of those -- you know, colleagues at

1 Parekh

2 Duff & Phelps who have decades of experience
3 in the mortgage industry and have also
4 considerable experience working with loan
5 review firms.

6 Q. But I'm now asking about the basis
7 you're testifying to the Court about.

8 A. Um-hum.

9 Q. What -- apart from -- I mean, you
10 didn't even think of calling up another firm
11 to see if they could do it more cheaply or
12 more quickly?

13 MR. MUNNO: I think the witness has
14 asked and answered.

15 You can answer again.

16 A. I can't recall whether I thought of
17 it, but my conclusion is that Digital Risk's
18 estimates would be the germane estimates to
19 this matter. They had already looked at
20 loans similar to these that -- not similar.
21 They had already looked at a sample of loans
22 from the -- from the covered loans, and so
23 their estimate of how they could do this and
24 what it would take was the relevant estimate.

25 BY MR. NETZER:

1 Parekh

2 Q. And did you discuss with Digital
3 reducing the cost and increasing the
4 efficiency and how that could be done?

5 A. Yes, I did.

6 Q. Tell us what those discussions
7 were, what you said and what they said.

8 A. Well, I asked when I --

9 As I said in my report, when I
10 initially asked, they gave me a number of
11 reviewers. And I pressed them and said, you
12 know, "Could you get more reviewers?" and
13 they said "with considerable effort of
14 finding other reviewers."

15 And, you know, it might take some
16 lead time to find those reviewers because
17 firms are at capacity, their firm was at
18 capacity, but they could find -- they could
19 double it.

20 Then I inquired as to whether they
21 would be quality reviewers or would we have
22 quality control problems? And they assured
23 us that, no, they could -- they could find
24 the 40 quality reviewers to do this.

25 Q. And did you discuss with them --

1 Parekh

2 But those would be people -- am I
3 correct that they would have to hire those
4 people?

5 A. I didn't -- I don't know how they
6 would obtain those. They would be
7 responsible for them, so I don't know whether
8 they would hire them as 1099 employees or if
9 they were already on-staff. That I don't
10 know the answer to. But when I asked, I was
11 told instead of 20, they could get 40.

12 Q. Just a minute.

13 Footnote 12 on page 8 you say,
14 "Interview with Joe Phillips, Digital Risk.
15 Mr. Phillips informed me that finding more
16 than 20 reviewers would be difficult;
17 however, with enough lead time and
18 significant effort it may be possible to find
19 as many as 40 qualified reviewers."

20 MR. MUNNO: Footnote 12, for the
21 record.

22 BY MR. NETZER:

23 Q. What did he mean by finding?

24 A. I interpreted the word "find" to
25 mean employing, use -- and not employing in

1 Parekh

2 the sense -- just use.

3 I did assume he meant locate either
4 within his firm or without his firm, but
5 present for use to the trustees, is how I --
6 I meant the word "find" -- interpreted the
7 word "find."

8 Q. Okay. But you didn't discuss with
9 him whether they would be people from outside
10 his firm?

11 A. I didn't. I asked him if they
12 would be of high quality. He said "yes."
13 And, at that point, that seemed to be enough.
14 That's what he said they -- they could get
15 for our use.

16 Q. When you said "would they be of
17 high quality," what did you mean?

18 A. So, when we went to -- when we at
19 Duff & Phelps went down to Digital Risk, one
20 of the things that we ascertained was the --
21 was their quality control procedure of making
22 sure that their -- that their findings are
23 accurate.

24 And as part of that, their
25 reviewers need to be experienced enough to do

1 Parekh

2 the job. And I wanted to make sure that when
3 he was presenting us with 40 reviewers, those
4 would be reviewers who were good enough in
5 the dimensions that reviewers need to be good
6 at to do their job.

7 Q. And when you did your initial visit
8 where you learned about -- concerning quality
9 control, was it your understanding that the
10 reviewers were employees of Digital?

11 A. I don't have an understanding. My
12 understanding is that Digital Risk was
13 responsible for the -- their results,
14 their -- you know, was responsible for paying
15 them. I don't know if that makes them an
16 employee or not.

17 Q. Well, what --

18 Can you please elaborate on the due
19 diligence that Duff & Phelps did --

20 A. Um-hum.

21 Q. -- in connection with ensuring the
22 quality control of the initial 20 reviewers.

23 A. Well, that would be, you know, done
24 in more detail in Jim -- in the report, you
25 know, Jim Aronoff's declaration. But what we

1 Parekh

2 did was we reviewed their credentials and we
3 met with them and we talked to some of them,
4 but not all of them, about their experience.

5 And we looked at their process of
6 how they take loans in from the beginning and
7 all the way through their process of checking
8 and double-checking the results, and then how
9 they present them to us.

10 Q. And they were all -- your
11 understanding was that they would be
12 employees -- this is the 20, now -- would be
13 employees of Digital Risk or not necessarily?

14 A. Well, again, I'm struggling with
15 what you mean by "employees." They're not
16 volunteers. They're being paid to do this
17 job. I -- how they're being paid in terms of
18 their actual tax structure, I don't know.

19 Q. Fair enough.

20 My question is, were they -- would
21 they be people who were brought in for a
22 specific project or who had worked with
23 Digital Risk before?

24 A. I don't know the answer to that.

25 Q. So far as you're aware, correct,

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Parekh

the loan reviewers can be brought in from the
outside?

A. I'm aware that is possible.

Q. Do you have --

A. As far as I'm aware, that is
possible.

Q. You don't know one way or the
other, do you, whether they're brought in
from the outside or they're preexisting
people who have worked with Digital Risk
before, correct?

A. I -- at this time, I can't recall
one way or the other.

Q. Did you ever know?

A. I don't know if I ever knew.

Q. Okay. And, similarly, you don't
know whether the additional 20 would be knew
(sic) to Digital Risk, correct?

A. I don't know whether -- how Digital
Risk would go about finding those people and
employing them, but -- so, no, I don't know
one way or the other.

Q. Okay. And did you discuss with --

So, so far as you're aware,

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Parekh

therefore, the additional loan reviewers
could -- might be or might not be people that
were brought in from the outside and had not
worked with Digital Risk before, fair?

MR. MUNNO: Objection;
hypothetical.

You may answer.

A. Yeah, I don't know -- I don't know
how Digital Risk would do that. No, I don't
know one way or the other.

BY MR. NETZER:

Q. So, really it is just a matter of
hypothesis for you; your lawyer is quite
right, you have no knowledge of it?

MR. MUNNO: "It" being what?

MR. NETZER: The subject of my
question.

A. I'll answer -- I have no knowledge
as to how Digital Risk selects and hires its
employees.

BY MR. NETZER:

Q. Okay. And why couldn't Digital
Risk get 60 as opposed to 40?

MR. MUNNO: Objection;

1 Parekh

2 hypothetical.

3 You may answer.

4 A. I don't know why they couldn't get
5 60.

6 BY MR. NETZER:

7 Q. Again, your lawyer is right, it's
8 complete speculation on your part, right, you
9 don't know?

10 MR. MUNNO: Objection.

11 You may answer.

12 A. There -- what's complete
13 speculation? I'm sorry.

14 BY MR. NETZER:

15 Q. On whether they could get 60 or
16 not.

17 A. Well, I don't think they can get 60
18 because I asked the question and I was told
19 they could get 40.

20 Q. That's right. But apart from that,
21 you don't know?

22 A. Well, I don't think they could get
23 60 because it -- if they could get 60, I --
24 Mr. Phillips would have told me they could
25 get 60.

1 Parekh

2 Q. What did Mr. Phillips say when you
3 asked him "Why can't you get 60?"

4 MR. MUNNO: Objection.

5 A. I didn't ask him why he can't get
6 60.

7 BY MR. NETZER:

8 Q. That's right. You didn't, did you?

9 A. I asked him if he could get more --

10 Q. What about 40?

11 MR. MUNNO: He didn't finish
12 answering his question.

13 MR. NETZER: I'm sorry. I thought
14 he was done.

15 A. I asked if he could get more than
16 20, and he replied that he could get 40, up
17 to 40.

18 BY MR. NETZER:

19 Q. Up to 40. Up to 40 more?

20 A. No, no. Up to 40 total.

21 Q. Okay. And why couldn't he get
22 more?

23 MR. MUNNO: Objection.

24 A. The only thing he told me about the
25 limits was that there weren't qualified

1 Parekh

2 reviewers available. And he would have to
3 work, but he could reallocate some resources
4 and get 40.

5 BY MR. NETZER:

6 Q. Reallocate resources?

7 A. (Witness nodded head.)

8 Q. What did that mean?

9 A. I think that meant that his
10 reviewers would be doing other things, but
11 with some effort and consolidation he could
12 put 40 reviewers on this -- on this project.

13 Q. Okay. And these would be new
14 hires?

15 A. I don't know.

16 Q. Did you ask him?

17 A. No.

18 Q. And did you ask him why he couldn't
19 get more than 20 -- 20 more, that is, total
20 40?

21 MR. MUNNO: Asked and answered.

22 You may answer it one more time
23 only.

24 A. No, I asked him if he could get
25 more than 20. That's what I asked him.

Parekh

BY MR. NETZER:

Q. And did you ask any other loan review companies if they could supply more personnel to the project than just 40 loan reviewers?

A. Did I ask any loan reviewers in connection with this matter?

Q. Yes.

A. If -- no, I thought I had testified earlier that I had not spoken to other loan review firms in connection with this matter.

Q. And what did you and Mr. Phillips discuss with respect to working with other loan review companies to --

MR. MUNNO: Objection.

BY MR. NETZER:

Q. -- augment --

MR. NETZER: Pardon?

MR. MUNNO: I'm sorry. I thought you finished.

BY MR. NETZER:

Q. What did you and Mr. Phillips discuss with respect to Digital working with other loan review companies to complete the

1 Parekh

2 loan review?

3 MR. MUNNO: Objection.

4 You may answer.

5 MR. NETZER: Basis?

6 MR. MUNNO: No foundation for the
7 question.

8 BY MR. NETZER:

9 Q. Oh. So, you -- I'm sorry. You
10 never did discuss this. I get what your
11 lawyer is saying.

12 A. I never discussed that with --

13 Q. Why not?

14 MR. MUNNO: You may answer the
15 question.

16 A. I thought I had. I never discussed
17 that.

18 BY MR. NETZER:

19 Q. Why not?

20 A. Oh, I'm sorry. I didn't hear you.
21 I apologize.

22 Q. No. I probably mumbled.

23 Why not?

24 A. I -- it -- Digital Risk was the
25 firm that was doing the loan reviews. And

1 Parekh

2 we, you know -- we had diligenced Digital
3 Risk and were satisfied with the quality that
4 they were giving us.

5 If other firms were to be brought
6 in, that would be a different process. That
7 would -- that would create potential other
8 problems. And in doing this analysis, I
9 wasn't prepared to analyze, you know, what
10 the cost and time associated with those
11 problems would be, because Digital Risk was
12 the firm that the trustees and Duff & Phelps
13 were comfortable with.

14 Q. Okay. And they were not
15 comfortable with any others?

16 A. Not at the time. Not at this time.

17 Q. Well, was there -- tell me --

18 A. In connection with this matter.

19 Q. Um-hum. Do you have any reason to
20 think that other firms could not do what
21 Digital Risk is going to do or would be
22 doing?

23 A. I think there are other firms that
24 can do that, do the work that Digital Risk
25 would. So, I don't want to say there are any

1 Parekh

2 other firms, but I do believe there are other
3 firms that could also review loans to the
4 quality that Digital Risk does.

5 Q. Which firms?

6 A. The ones I had mentioned in the
7 past, Cross Check, Edge Mac, Barrent. But
8 these are not firms that we were working with
9 in connection with this matter.

10 Q. And what is the reason that the
11 trustees couldn't work with these firms in
12 this matter?

13 MR. MUNNO: Objection.

14 A. I didn't -- I don't believe I --
15 their -- I gave a reason that they couldn't.
16 I said they aren't working with.

17 BY MR. NETZER:

18 Q. Is there any reason why they
19 couldn't?

20 A. They could work with other firms.
21 It would require some potential -- you know,
22 potential but certainly some up-front effort,
23 time and cost.

24 Q. How much?

25 A. I don't know the answer to that.

1 Parekh

2 Q. Do you have any idea?

3 A. Well, it would certainly take, you
4 know, a few days for each firm to -- two or
5 three days for each firm to go diligence
6 these firms and meet with them.

7 But what I really don't have any
8 sense of is when you have multiple firms
9 working together, there's going to have to be
10 some sort of oversight and management
11 structure over the top of all this, and
12 there's also going to have to be integration
13 of computer systems so that the quality
14 control can go back and forth so that the
15 results coming out are all standardized.

16 And I don't -- I've never been
17 involved with doing that. I'm not saying it
18 can't be done, but I just don't know what
19 that would involve.

20 Q. I'm sorry. Why did they have to be
21 standardized?

22 A. Because -- why? Sorry.

23 Q. There are different trusts here,
24 correct?

25 A. There are different trusts,

1 Parekh

2 absolutely.

3 Q. There are different trustees,
4 correct?

5 A. There are different trustees.

6 Q. Why does the loan review have to be
7 standardized?

8 A. I'm not saying the loan review
9 needs to be standardized. The results need
10 to be standardized and coordinated.

11 Q. Because?

12 A. Because when you get a massive
13 number of results, 200 -- you know, 200,000
14 odd reviews, if the results of the loan
15 review are differently calibrated, different
16 standards for material and adverse, for
17 example, it would be -- potentially lead to
18 inaccuracies or a high variability -- low
19 level of precision in figuring out the
20 claim -- in figuring out what loans the
21 trustees would want to submit into the
22 Protocol.

23 MR. MUNNO: Would this be a good
24 time for a break?

25 MR. NETZER: Sure, absolutely.

Parekh

THE WITNESS: Thank you.

(Recess taken.)

BY MR. NETZER:

Q. Sir, are you offering yourself to the Court as an expert on loan review?

A. I'm --

MR. MUNNO: I'm going to object because the lawyers are going to be offering experts and the subjects. And he's not going to be offered as an expert on loan review. He's being offered as someone who has analyzed the Protocol.

MR. NETZER: Right. I'm trying to understand the basis for the expertise that enables him to analyze the Protocol.

BY MR. NETZER:

Q. Are you an expert on loan review?

A. I have participated in loan reviews extensively over the last two and a half years, and the basis of the opinions in my report also include discussions with those at Duff & Phelps who are experts on loan review

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specifically and have decades of experience
in the mortgage securitization and mortgage
industry.

Q. For the -- I'm asking, and I'm
offering your answer to the Court: Are you
an expert on loan review or not?

A. I'm not an expert in the
interpretation of results of loan reviews. I
have -- like I said, I have two and a half
years of experience working with loan reviews
quite extensively.

Q. Are you an expert on conducting a
loan review?

MR. PEDONE: Can I take a break and
speak to Mr. Munno for a second?

MR. NETZER: Could we wait until I
get an answer to my question?

MR. PEDONE: Of course.

THE WITNESS: And your question was
again --

I'm sorry. Can it just be read
back?

BY MR. NETZER:

Q. Are you an expert on conducting a

1 Parekh

2 loan review?

3 MR. MUNNO: I'm going to object.

4 It's a legal conclusion.

5 But you may answer.

6 A. I have, like I said, two and a half
7 years of experience in working with firms
8 that engage in loan reviews. I know how to
9 get a loan review done. If someone came to
10 me and said, "We need to get a loan review
11 done," I can get that loan review done.

12 I don't know if that's conducting a
13 loan review, but I know exactly how to get
14 that loan review done based on my experience,
15 as well as the fact that those that I work
16 with at Duff & Phelps have conducted, as I --
17 many, many loan reviews.

18 BY MR. NETZER:

19 Q. Well, let's take your -- I'm going
20 to use your style.

21 If someone came to you and said,
22 "We're looking for an expert on loan
23 reviews," would you say, "I'm your man"?

24 A. I would ask, "What part of a loan
25 review do you need expertise on?"

1 Parekh

2 Q. And then depending on the answer,
3 you could say, "Yes I can do that" or, "No, I
4 can't do that"?

5 A. Depending on the answer, I would
6 say "I can do it" or I would direct them to
7 the person at Duff & Phelps that could do
8 that piece.

9 MR. NETZER: Are you okay here?

10 You need a break?

11 MR. PEDONE: I would love to speak
12 with Mr. Munno.

13 MR. NETZER: Okay. Can the witness
14 stay here at least?

15 MR. PEDONE: Sure.

16 MR. MUNNO: Don't ask him any
17 questions.

18 MR. NETZER: I just want to save
19 time.

20 (Recess taken.)

21 BY MR. NETZER:

22 Q. When you spoke to Mr. Phillips and
23 he gave you the estimate that is referenced
24 in your report in, let's see, paragraph 23,
25 did you -- which of your colleagues at Duff &

1 Parekh

2 Phelps did you ask to verify that this was
3 correct, what he had told you, what
4 Mr. Phillips had told you?

5 MR. MUNNO: Objection.

6 You may answer.

7 A. I spoke with Jim Aronoff and
8 Richard Sauerwein.

9 BY MR. NETZER:

10 Q. And what did they say and what did
11 you say?

12 A. They told me that they were
13 skeptical that 40 reviewers are possible.
14 They had experience conducting loan reviews
15 and finding even 20 reviewers has been -- has
16 been difficult for them.

17 And I said to them that
18 Mr. Phillips said he could get 40 reviewers.
19 And they said they were skeptical, again.

20 And I said, "Well, but if he thinks
21 he can get 40 reviewers, then that's the best
22 information in this matter that I have to go
23 on."

24 Q. Did you talk to them about using
25 reviewers who weren't at Digital?

1 Parekh

2 A. Yes. And none of -- none of us
3 have ever heard of a loan review that
4 involves multiple firms. We had never heard
5 of it. We had never -- none -- neither
6 Mr. Aronoff nor Mr. Sauerwein had any
7 experience in doing that, and they were
8 skeptical that that could ever work.

9 Q. So, in fact, you may --

10 So, you did discuss it? I thought
11 you testified earlier that you hadn't
12 discussed that with anyone.

13 MR. MUNNO: No, that wasn't the
14 question. You asked him about
15 Mr. Phillips.

16 MR. NETZER: I'm asking the witness
17 a question now. You can wait.

18 MR. MUNNO: Well, I'm objecting to
19 the question.

20 MR. NETZER: Your objection is
21 noted.

22 BY MR. NETZER:

23 Q. Go ahead, sir.

24 A. Can you ask your question again.

25 Q. Sure.

1 Parekh

2 So, in fact, you did discuss with
3 your colleague at Duff & Phelps whether or
4 not it was feasible to work -- to have
5 different firms doing the loan review,
6 correct?

7 A. I have discussed that subsequent to
8 the filing of my report.

9 Q. When?

10 A. Over the last several days.

11 Q. When exactly?

12 A. In the last two weeks.

13 Q. When exactly?

14 A. That's the best that I can
15 remember.

16 Q. It wasn't today?

17 A. It was not today, no.

18 Q. And what prompted you to do that?

19 A. The reports by Mr. Pino and Mr. --
20 is it Alread -- would have been one reason.

21 We certainly would have discussed
22 it in connection with those reports. I don't
23 recall what may have prompted discussing it
24 before then, if there were discussions before
25 then. What I -- what I do recall is that

1 Parekh

2 Mr. Aronoff and Mr. Sauerwein were skeptical
3 about the 40 reviewers.

4 Q. No, I'm talking about something
5 else.

6 A. Okay.

7 Q. I'm talking about your statement of
8 your -- of Duff & Phelps, your colleagues at
9 Duff & Phelps saying that they have no
10 familiarity with different loan companies
11 conducting loan reviews.

12 A. That would have been in conjunction
13 with discussing Mr. Parekh and Mr. Alread's
14 report. So, that would have had to been in
15 the last -- not today, but the day before or
16 the last day before that, the last couple of
17 days.

18 Q. And tell me -- and they said --
19 they said none of them has ever heard of a
20 loan review that involves multiple firms; is
21 that what your discussion was with them in
22 the last couple of days?

23 A. Yes. I told them I have no
24 experience with that type of review and asked
25 them if they had any experience with that

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Parekh

type of review, because they have significant industry experience. And they have no -- they also replied, you know, that they have never seen any review like that and have no experience with a -- with a loan review involving multiple firms.

Q. And how much experience do they have with a loan review of this size?

A. Of the size contemplated in the -- by this Protocol of 200,000-something loans?

Q. Yes.

A. They recounted to me they never experienced a loan review of that size.

Q. And why is the loan review -- why have the trustees decided that all of their mortgages would be the subject of the same loan review?

MR. MUNNO: Objection; no foundation.

You may answer.

MR. NETZER: Let me -- what I mean -- fair question.

BY MR. NETZER:

Q. Why is it -- I mean, is there any

1 Parekh

2 legal requirement that these trustees get
3 together and have one company review the
4 mortgages that they own? They're owned by
5 different trustees, correct?

6 MR. MUNNO: Objection.

7 A. I can't speak to legal
8 requirements. I wouldn't know. I'm not a
9 lawyer. I'm sorry.

10 BY MR. NETZER:

11 Q. That's fair, but is there any
12 requirement?

13 A. I don't know if there's a
14 requirement that this has. The problem is
15 that, you know, we have -- we as a firm have
16 no experience in how to do that or that it
17 can be done. I mean, nobody that I've spoken
18 to has any confidence that that could be done
19 with quality, successfully and quickly.

20 Q. And why is it that the trustees
21 here have decided to hire one firm, Duff &
22 Phelps, to advise them about this process?
23 Couldn't they have each used a different
24 firm?

25 MR. MUNNO: Objection.

1 Parekh

2 You may answer, if you can.

3 A. My -- I can only speculate as to
4 why they only hired -- why -- only why
5 they've hired us.

6 I mean, I would like to think we're
7 good and we can offer good advice to the
8 trustees and they all want to work with us,
9 but --

10 BY MR. NETZER:

11 Q. And I -- don't be modest. I think
12 that's a fair statement. My question is,
13 though, all I'm driving at is they --

14 The trusts here contain different
15 mortgages, correct?

16 A. Yes.

17 Q. And each trust could prosecute its
18 own claims, correct?

19 MR. MUNNO: Objection.

20 You may answer.

21 A. Yeah, that's a legal question. I
22 don't think I can, I think, speak to how the
23 trust, because -- and then this is getting
24 into legal requirements, but the trusts need
25 to direct the trustees. And what the

1 Parekh

2 requirements are for that, I haven't studied
3 at all, so --

4 BY MR. NETZER:

5 Q. Let me ask you a different
6 question. Why is it that the trustees are
7 working in this consolidated way?

8 Do you know what I mean by
9 "consolidated way"? As opposed to working
10 separately.

11 MR. MUNNO: Objection.

12 You may answer.

13 A. My sense is that there are gains
14 from, you know, using common advice and not
15 paying different firms to do the same work.

16 There may be other trustees who
17 have chosen to do things differently. I
18 don't know.

19 BY MR. NETZER:

20 Q. Any other reason you can think of?

21 MR. MUNNO: Any other reason as to
22 why it is that the trustees are doing
23 what they're doing?

24 MR. NETZER: Well, I didn't ask
25 what they're doing -- what they're

1 Parekh

2 doing. More specific.

3 BY MR. NETZER:

4 Q. Any other reasons that you can
5 think?

6 A. Any other reason that they --
7 Are you asking me are there any
8 other reasons I can think of that they've
9 decided to work with Duff & Phelps?

10 Q. No.

11 A. No?

12 Q. They've also decided to work with
13 only one loan review company, correct?

14 A. They have decided to work with only
15 one loan review company, Digital Risk.

16 Q. And as you say, I think the reason
17 they've chosen to work with Duff & Phelps is
18 because of the --

19 You'd like to think it's the
20 quality, and I appreciate that. And I'm not
21 disputing any of that. It's just I'm trying
22 to understand. Nothing prevents them from
23 proceeding discreetly --

24 I mean, the size of this project is
25 because the trustees have decided to work in

1 Parekh

2 a consolidated manner, correct?

3 MR. MUNNO: Objection.

4 You may answer.

5 A. The size of the project is because
6 there are a lot of loans. And even if the
7 trustees worked in separate manners, there
8 would be a lot of loans.

9 BY MR. NETZER:

10 Q. Exactly. But there wouldn't be --
11 the loan --

12 They can have multiple loan
13 companies working on this, couldn't they?

14 A. They would then suffer from the
15 problems I had spoken to earlier of not -- of
16 not being able to put forth a claim on the
17 same basis, you know.

18 Q. True, they would be separate
19 parties putting forth a claim -- separate
20 claims. They wouldn't have it -- they
21 wouldn't speak with one voice, that's true.
22 Anything else?

23 MR. MUNNO: He already indicated
24 other things.

25 But you may answer again.

1 Parekh

2 MR. NETZER: Well, I think these
3 are important reasons. I want to make
4 sure I give the witness to chance to
5 elaborate on them.

6 A. I mean, I can't speculate as to --
7 there may be a myriad of legal reasons that
8 the trustees would want to work together.

9 But time and cost of using one
10 firm, you know, the cost is -- specifically
11 is a concern. And by using the one firm,
12 they can -- they could benefit from a single
13 oversight process with a single quality
14 control mechanism. And that has been always
15 our basis for working with Digital Risk, is
16 that they produce high-quality results.

17 BY MR. NETZER:

18 Q. Okay.

19 A. And a big concern in our
20 discussions over the last couple of days has
21 been that if you try to do this with multiple
22 firms, we don't know of anyone that has any
23 experience in how to do it and whether it
24 could even be done properly. Or would we, at
25 the end of it, run the risk of having to

1 Parekh

2 scrap the results and, you know, potentially
3 redoing major portions of this, because the
4 quality wasn't the same?

5 You start to add more and more and
6 more reviewers, you may get lower-quality
7 reviewers as you add them on. You start to
8 have things going across different firms and
9 you're going to have differences in the
10 results.

11 These are all problems that we've
12 never seen before, never -- have no
13 experience in how do deal with.

14 Q. And you had not considered these
15 problems before you prepared your expert
16 report, correct?

17 A. It never occurred to us that it
18 could be a good idea to use multiple firms,
19 so we never considered it.

20 Q. And now it has -- excuse me.

21 A. We've considered it now only
22 because your expert has considered it, and we
23 still don't believe it's a good idea.

24 Q. And have you done an expert
25 analysis that it's not a good idea?

1 Parekh

2 A. No, I've not done an expert
3 analysis that it's -- that it's not a good
4 idea. What I've done is an analysis that
5 shows that Digital Risk would be able to do
6 this -- to do this review.

7 Q. Right. My question is: Have the
8 trustees conducted an expert analysis on
9 whether or not multiple loan companies could
10 do it?

11 A. Not beyond the discussions that
12 I've had with those at Duff & Phelps, who
13 have significant and deep expertise in the
14 mortgage -- you know, the mortgage industry
15 and the loan review process.

16 Q. And those were two colleagues or
17 more than two?

18 A. Specifically the two, Aronoff and
19 Sauerwein. But I also had some discussions
20 with other colleagues who have mortgage
21 industry experience, Edmond Esses and Allen
22 Pfeiffer.

23 Q. And what did you say to them, what
24 did they say to you?

25 A. Well, both of them have worked with

1 Parekh

2 me extensively over the last two and a half
3 years.

4 Allen Pfeiffer was -- Mr. Pfeiffer
5 was extremely involved in the ResCap matter
6 and the ResCap loan review process.

7 Mr. Esses has several years of mortgage
8 industry experience. And I asked them if
9 they had ever heard of anything like this
10 or -- and they had said "no" either.

11 But the main basis of my reliance
12 would have been on Aronoff and Sauerwein.

13 Q. When you say "anything like this,"
14 what is "this"?

15 A. The Protocol. I was speaking
16 specifically about the Protocol. And then
17 also about Mr. Pino's report where he
18 suggested that. And I can't -- and I can't
19 recall whether I had spoken to Pfeiffer and
20 Esses about multiple loan review firms or
21 whether just the total number of reviewers.

22 Q. And they've seen the Protocol?

23 A. They have seen the Protocol, yes.

24 Q. And they saw the expert reports?

25 A. They have seen the expert reports.

1 Parekh

2 I can't testify as to how closely they've
3 read the expert reports.

4 Q. Have they read the expert reports?

5 A. I don't know if they've read them,
6 but I believe that all four of the gentlemen
7 I mentioned have read them. I just don't
8 know for certainty.

9 Q. Back to Mr. Aronoff and
10 Mr. Sauerwein.

11 A. Um-hum.

12 Q. Apart from them saying "I" --
13 they're not familiar with this, did you --

14 That's one thing, they've never
15 seen it before. And did you also discuss
16 with them those concerns -- and I don't mean
17 to put words in your mouth, I'm using my own
18 understanding -- about consistency and
19 quality control and oversight?

20 A. Yes, we discussed that.

21 Q. And what did they say about that
22 and what did you say about that?

23 A. They expressed significant concern
24 that the number of reviewers are available.
25 They didn't think the industry has the

1 Parekh

2 capacity.

3 One thing that Mr. Aronoff pointed
4 out was that many of these additional
5 reviewers that each firm claims that they can
6 bring on are actually the same people that
7 might get hired in a contract basis, and he
8 just didn't believe that Mr. Pino's version
9 of the Protocol that requires 700 and
10 something reviewers total actually exists in
11 the industry, not at a high quality. He --

12 Q. In the total industry, there aren't
13 700 quality reviewers?

14 A. He didn't -- he did not think that
15 there were 700 total quality reviewers
16 available to do this, this Protocol, in the
17 entire industry.

18 Q. And what do you think?

19 A. I agree with Mr. Aronoff, and
20 Mr. Sauerwein also expressed the same
21 concern. And I agree with them.

22 Q. And what is the basis for your
23 agreement with them?

24 A. That I -- one, that I trust them
25 and their industry experience. And two, I've

1 Parekh

2 never -- I've never heard of or experienced
3 any loan review with that many reviewers.
4 And when we have asked for more reviewers in
5 previous engagements, we have had difficulty
6 getting them.

7 Q. Asked for more reviewers from one
8 company or asked for reviewers from multiple
9 companies?

10 A. Within one company.

11 Q. Right.

12 A. We never tried to work or thought
13 it was a good idea to work with multiple
14 companies.

15 Q. And the basis for their statement
16 that they're all the same -- that there's
17 overlap among these reviewers is what?

18 A. Mr. Aronoff's experience with the
19 industry and -- Mr. Aronoff's experience with
20 the industry.

21 Q. Exactly what is that experience
22 that he explained to you that led him to that
23 conclusion?

24 A. He has been involved with loan
25 reunderwriting and forensic reviews for many

1 Parekh

2 years with many firms and has hired and used
3 many firms to perform loan underwriting, and
4 he has exhibited -- or he has expressed in
5 the past that he's had trouble getting more
6 reviewers when he needs them.

7 Q. From one company?

8 A. From one company.

9 Q. My question now is the basis for
10 his conclusion that the different companies
11 used the same reviewers. What is the basis
12 for that conclusion?

13 A. He has experience on -- with loan
14 review firms that have brought in outside
15 reviewers and he knows -- you know, he knows
16 who they are, and he's met with them and he's
17 worked with them at other companies. So, the
18 same people at different times, not at the
19 same time.

20 Q. What are -- what do you mean by
21 "outside reviewers"?

22 A. He referred to them as "1099
23 employees."

24 Q. And how many -- what's the size of
25 that population?

1 Parekh

2 A. I don't know.

3 Q. Did you ask him?

4 A. No, I did not.

5 Q. But in any event, his comment about
6 these people, the number of people who are
7 not standard employees of the loan companies,
8 correct, they're 1099 reviewers -- 1099
9 employees?

10 A. I didn't understand what the
11 question was.

12 Q. What does he mean by "1099
13 employees"?

14 A. I assume that means contractors who
15 are not, I guess, full-time employees. But
16 that's just how I understand 1099 to be.

17 Q. So, when he said there aren't 700
18 in the industry, you doubted there were 700
19 in the industry; do you remember that?

20 A. He doubted there were 700 available
21 in the industry.

22 Q. 700 what?

23 A. Review -- reviewers that could be
24 used at the same time.

25 Q. And does that mean reviewers at

1 Parekh

2 loan companies or does that mean the 1099
3 employees?

4 A. He said total, so that would --
5 that would include both.

6 Q. So, of the 700, how many of them
7 are 1099s?

8 A. I don't know the answer to that.

9 Q. 100?

10 MR. MUNNO: He said he doesn't know
11 the answer. Come on.

12 A. I don't know the answer.

13 BY MR. NETZER:

14 Q. 500?

15 A. I don't know the answer to that.

16 Q. How many individual loans were
17 reviewed in the sample?

18 A. 4,579, I believe. Let me just
19 recollect that from my report. But I believe
20 that is the number.

21 4,579 have already been reviewed.

22 Q. And that was by Digital Risk?

23 A. That was by Digital Risk, yes.

24 Q. But that -- you were not involved
25 in that review; that was before your

1 Parekh

2 engagement?

3 A. The review --

4 Q. I'm sorry. That was a compound
5 question.

6 A. Yeah, the review was completed
7 before the engagement. I was involved in
8 diligencing the review and quality checking
9 the results and understanding the results.

10 Q. And how many reviewers were there?

11 A. We -- I understand there to be
12 about 20 reviewers who were working at any
13 one time on --

14 Q. So, at any one time, there were 20
15 reviewers working on the sample?

16 A. Yes.

17 Q. And how was the sample selected?

18 A. The sample was selected by Cowen &
19 Company as a stratified random sample.

20 Q. And how do you select a stratified
21 random sample?

22 A. As I wrote in my first report, you
23 group overall sampling population into a
24 strata and then you randomly sample from
25 within each of the strata. So, in essence,

1 Parekh

2 each strata is an individual random sample.

3 Q. Okay. And you have --

4 Have you, yourself, designed and
5 executed a sample of mortgages?

6 A. Yes.

7 Q. And when did you do that?

8 A. I've done that in ResCap, and I've
9 done that in at least four other matters that
10 I can recall in which our retention isn't
11 disclosed. But those were all specifically
12 for mortgages. And throughout my career,
13 I've designed many samples.

14 Q. Of mortgages?

15 A. Not of mortgages.

16 Q. Just --

17 A. So, the mortgages I said was
18 ResCap. And then the other, at least four,
19 are RMBS matters.

20 Q. Could you turn to paragraph 23
21 again -- or turn to paragraph 23 of your
22 report. Maybe it isn't again.

23 A. Okay.

24 Q. Looking at your conclusion, "Based
25 on this rate, it requires 7 years or 5 years

1 Parekh

2 to complete the loan review" --

3 Do you see that at the end of
4 paragraph 23?

5 A. I do.

6 Q. What was it that you did to make
7 that determination?

8 A. I spoke to Digital Risk about how
9 many reviewers they could put on the task of
10 reviewing. I spoke to Digital Risk,
11 Mr. Sauerwein and Mr. Aronoff about the rate
12 with which each reviewer could review a loan,
13 and I looked at a calendar to count how many
14 working days there are in a year. And then I
15 did the multiplication.

16 Q. Was there -- did you -- what
17 expertise did you use in reaching this
18 conclusion?

19 A. I used -- well, I'm not sure what
20 you mean by "expertise."

21 MR. MUNNO: I'm going to object to
22 the question.

23 You may answer.

24 A. I mean, it's multiplication, so --

25 BY MR. NETZER:

1 Parekh

2 Q. That's what I'm saying. So, there
3 was no particular expertise you used,
4 correct?

5 MR. MUNNO: Objection.

6 You may answer.

7 A. The expertise comes in
8 Digital Risk's, mine, Mr. Aronoff's and
9 Mr. Sauerwein's expertise on how many
10 reviewers are available and how fast each
11 reviewer can reasonably go. That's the
12 expertise. The rest of the -- the rest of it
13 is -- you know, 251 days in a year is --
14 workdays in a year is fact. And
15 multiplication, I guess, is some level of
16 expertise. But, no, it's just
17 multiplication.

18 BY MR. NETZER:

19 Q. Well, the expertise --
20 The 40 figure came from
21 Mr. Phillips, correct?

22 A. Correct.

23 Q. And you checked it with your
24 colleagues, correct?

25 A. I checked it with my colleagues.

1 Parekh

2 Q. And the three days come from?

3 A. The three day comes from
4 Mr. Phillips, Mr. Sauerwein, Mr. Aronoff and
5 myself, in our experience, based on our
6 experiences with how fast reasonable loan
7 reviews can occur.

8 Q. And did you have experience or
9 expertise that enabled you to evaluate what
10 Mr. Phillips said about the 40 reviewers?

11 A. Yes, we have experience.

12 Q. You, sir, please. You, as the
13 witness.

14 MR. MUNNO: You can answer.

15 A. Yes.

16 BY MR. NETZER:

17 Q. What is that expertise?

18 A. That expertise is my experience in
19 conducting loan reviews and the discussions
20 that I had with Mr. Aronoff and Mr. Sauerwein
21 and their experiences.

22 Q. And what was it, in your experience
23 of loan reviews, that supported the notion
24 that you could have no more than 40 loan
25 reviewers?

1 Parekh

2 A. In all the loan reviews that I've
3 been involved in, as well as the loan reviews
4 that I discussed Mr. Aronoff and
5 Mr. Sauerwein having been involved in, they
6 have not been able to get 40 reviewers all at
7 the same time to review loans.

8 Q. "In all the loan reviews that I've
9 been involved in" --

10 I'm going to ask -- I want to read
11 this back: "In all the loan reviews that
12 I've been involved in, as well as the loan
13 reviews that I discussed with Mr. Aronoff and
14 Mr. Sauerwein, they have been involved in,
15 they have not been able to get 40 reviewers
16 all at the same time to review loans."

17 Here's my question: Putting aside
18 what Mr. Aronoff and Mr. Sauerwein said, in
19 all of the loan reviews that you've been
20 involved with, they have not been able to get
21 40 reviewers all at the same time; is that
22 correct?

23 A. I have never been involved with a
24 loan review that had 40 reviewers at the same
25 time.

1 Parekh

2 Q. And my question is: You just
3 testified that you have not been able to get
4 40 reviewers, in all of your experience,
5 correct?

6 A. I did say that and maybe I -- I'm
7 being misunderstood in what I meant to say.
8 What I meant to say is that I don't have
9 experience where 40 loan reviewers have
10 worked on loan reviews in which I've been
11 involved. And at times, we have asked for
12 more loan reviewers and been unable to get
13 more loan reviewers.

14 Q. Tell me about those times.

15 A. There have been times when, either
16 because of client or Court or settlement
17 pressures, we have needed to increase the
18 rate and we have asked the firms for more
19 reviewers. And they have not --

20 They've been able to get us more
21 reviewers, but it was a small number, and
22 never did the number come up to 40.

23 Q. Okay. Tell me about those times
24 when you, sir, tried to get these increased
25 numbers. And tell us -- or tell the Court,

1 Parekh

2 rather, why it doesn't get up to 40.

3 Your experience, not

4 Mr. Sauerwein's, not Mr. Aronoff's. Yours.

5 A. It's because there weren't that
6 many reviewers available.

7 Q. No, not why. Tell us your
8 experience.

9 Who was it that you were trying to
10 get the additional reviewers for? You, sir.

11 A. Right. I'm --

12 Q. Not your firm.

13 A. Who was it that I was trying to get
14 them for or --

15 MR. MUNNO: From.

16 A. -- from?

17 BY MR. NETZER:

18 Q. In connection with what.

19 A. It was -- I don't know if I'm
20 allowed to disclose which firm it is because
21 I've signed protective orders, but it was a
22 well-known loan review firm. We asked for
23 more loan reviewers and --

24 Q. "We." You. I'm focusing now on
25 your experience as opposed to Duff & Phelps.

1 Parekh

2 A. Well, so we as a firm, but I was
3 involved.

4 Q. That's right.

5 A. I was involved with the review.

6 Q. Fair enough.

7 A. And "we" means Duff & Phelps as a
8 firm.

9 Q. Okay.

10 A. I don't know if I made the call or
11 someone else, but --

12 Q. Fair enough.

13 A. But I was involved.

14 Q. Okay.

15 A. And we were unable to get more
16 reviewers.

17 Q. Okay. And how many reviewers did
18 you need and how many could you get?

19 You don't have to tell me the name
20 of the company.

21 A. Sure.

22 We needed as many as possible, and
23 typically -- well, not typically. So, in the
24 experience that I can think of, we had ten
25 reviewers, if I recall correctly, and they

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Parekh

gave us an additional three or four
reviewers.

Q. And how many did you need?

A. Well, we needed --

Q. How many did you want?

A. We wanted as many as they could
give us. And I don't think --

Q. 40, 50, 60?

A. I don't know if I ever considered a
number that high because I didn't consider a
number. I specifically asked for "as many
reviewers as you can give me."

Q. And you got how many?

A. Additional three.

Q. Okay.

A. And I was told the reason for that
was everybody's booked up, that's what they
have available.

Q. Booked up till when?

A. Past the point that I needed them,
which would have been in the next month or
so.

Q. Okay. So, you have an experience
where you could not get more than 13

1 Parekh

2 reviewers for a month, correct? You have
3 that experience?

4 A. Yes.

5 Q. Okay. What other experiences do
6 you have for the proposition that you cannot
7 get more than 40? You, sir. Putting aside
8 what Digital told you, putting aside what
9 Mr. Aronoff and Mr. Sauerwein told you.

10 A. That's my experience.

11 Q. So, does that experience -- doesn't
12 that experience teach you that you can't get
13 more than 13? What does that experience tell
14 you about the issue? That's what I'm trying
15 to understand.

16 A. Well, I'm not sure that --

17 Q. I'm trying to help the judge
18 understand.

19 A. Yeah. That experience teaches me
20 it's difficult to get loan reviewers, a large
21 number of loan reviewers.

22 Q. In a month?

23 A. In that instance, it was a month.
24 And remember, that is -- that experience is
25 not the sole basis for my numbers in the

1 Parekh
2 input in this report, right? That one
3 experience is one of several experiences that
4 contributed. You know, my experience as well
5 as Mr. Aronoff's and Mr. Sauerwein's and what
6 Digital Risk represented to us.

7 Q. That's right. But the only part
8 that you have direct experience of yourself
9 is the one you've mentioned, correct?

10 A. That's correct.

11 Q. Okay. And the ones that
12 Mr. Aronoff and Mr. Sauerwein had, which ones
13 were those, which companies were those?

14 A. Those are ongoing litigation so I'm
15 not sure I can discuss specific companies,
16 but they're well-known loan review companies.

17 Q. Okay. And what were the numbers
18 that were sought?

19 A. Less than -- the numbers that were
20 sought --

21 The numbers that were achieved were
22 less than 40. I don't know what was sought.

23 Q. What were the numbers that were
24 achieved?

25 A. They told me typically in the 10 to

1 Parekh

2 20 range of the number of reviewers.

3 Q. Additional reviewers or just
4 reviewers?

5 A. Total reviewers.

6 Q. So, they couldn't get -- so, the
7 experience is that Mr. Aronoff -- is this the
8 same experience for both gentlemen or is it
9 two different experiences or only one?

10 A. No, no, they have different
11 experiences. They may have common
12 experiences, but they have different
13 experiences, so --

14 Q. And what was the window, the time
15 window?

16 A. I don't know. I -- what I asked
17 them was, does it seem reasonable to get more
18 than -- you know, that 40 reviewers is
19 reasonable. And then when the Pino report
20 came out, I asked them if this was reasonable
21 to get 465 reviewers. So, I did not --

22 MR. NETZER: Want to go off the
23 record?

24 (Discussion off the record.)

25 BY MR. NETZER:

1 Parekh

2 Q. Back to --

3 One question about your -- I say
4 one. Never believe one.

5 -- the experience you had with the
6 trying to up from the 10 reviewers and you
7 got three additional. When was that?

8 A. I can't recall exactly, but about a
9 year ago.

10 Q. Okay. And I apologize. You had --
11 you had described how you worked with people
12 and sat next to people and learned how to do
13 loan reviews. I don't think -- it wasn't in
14 connection with this case, it was in
15 connection with ResCap?

16 A. ResCap.

17 Q. Okay. And I want to come back to
18 that.

19 Prior to ResCap, had you worked in
20 the mortgage industry before?

21 A. No.

22 Q. Okay. And prior to sitting down
23 and watching the people at --

24 A. Cross Check Compliance.

25 Q. -- Cross Check, had you done a

1 Parekh

2 loan -- when did you before -- before you got
3 that kind of on-the-job training that you
4 mentioned, if you will?

5 A. No, I had not.

6 Q. Okay. And you worked with several
7 different loan reviewers or you sat with one
8 for a period of time?

9 A. It was three or four. And I
10 apologize, I can't really recall.

11 Q. Three or four different people?

12 A. Three or four different people.

13 Q. And you worked --

14 Before you took off the training
15 wheels, how many -- pardon my
16 colloquialism -- how many loans did you
17 review with the --

18 A. With the supervision of the other
19 reviewers, about 75 I would -- I would
20 estimate. But that's -- you know, I only
21 have a general recollection of it.

22 Q. And that was doing about three a
23 day?

24 A. Not at first. So --

25 Q. It was less than three initially?

1 Parekh

2 I'm sorry.

3 A. Yes.

4 Q. You tell me. I apologize.

5 A. That is -- that is correct.

6 Or it was 75 different loans and we
7 could look at pieces of loans at the
8 beginning, so we wouldn't do the whole loan.
9 We might do a piece of a loan, so I'm not
10 sure that three-a-day rate applies for a lot
11 of that training.

12 Q. Fine. But eventually, you were up
13 to three a day?

14 A. I never --

15 Q. Got that?

16 A. Never really achieved a rate of
17 three a day where I was accurate. But my --
18 but my understanding is that experienced loan
19 reviewers should be able to reach that rate,
20 and a quality reviewer should.

21 Q. And so, you -- this was --

22 So, you spent as many -- 25 days
23 doing that before you did it on your own?

24 A. In total, I would have reviewed
25 loans over the course of close to a year, you

1 Parekh

2 know, sometimes spending many hours,
3 sometimes spending less.

4 Q. Did you have a look at Mr. Alread's
5 expert report?

6 A. Could I have a look at it?

7 Q. Yeah. It's at --

8 MR. NETZER: Which one is that?

9 MS. HAGGLUND: It's Exhibit 2.

10 MR. MUNNO: May I trouble you for a
11 copy of Exhibit 2?

12 MR. NETZER: Yes.

13 Anyone else?

14 MR. MUNNO: Thank you very much.

15 MS. HAGGLUND: Sure.

16 BY MR. NETZER:

17 Q. Let me ask -- let me start with a
18 more general question.

19 You've had a chance in the last
20 couple of days to review this and discuss it
21 with your colleagues at Duff & Phelps,
22 correct? You have -- excuse me. Let me pose
23 the question a different way.

24 You have reviewed this and you
25 discussed it with your colleague at Duff &

1 Parekh

2 Phelps, correct?

3 A. I have read Mr. Alread's report. I
4 haven't had a chance to study it in detail,
5 but I've read it. I only had it for a little
6 over 24 hours. And we -- we, at Duff &
7 Phelps, have had some discussions.

8 Q. Okay. Based on those discussions,
9 are there -- that you've had and what reading
10 and review of it you've done, are there any
11 parts of it that you disagree with?

12 A. Yes, that's the --

13 Q. Can you elaborate on those?

14 A. Of course.

15 So, I disagree, you know, with his
16 conclusion that the Protocol is sound,
17 efficient, you know, workable and
18 cost-efficient.

19 I disagree with his statement where
20 he says that -- you know, on page 8 of his
21 report he says the Protocol will take -- you
22 know, cost approximately 110 million. And
23 while this -- and while this cost may appear
24 large, it's a relatively small cost figure.
25 I really had a question as to relative to

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what? I -- you know, relative to a sampling procedure, I would say it's quite large. And so, I disagreed with that.

And then I -- you know, this may not be all of them, because obviously I haven't studied it yet, but he also makes the statement that in -- on page 11 that Lehman must only respond to, you know, specifically alleged breaches and so Lehman's review time would take less time.

And I disagree with that because the way that the Protocol was set up, as I analyzed it and as I believe Mr. Pino analyzed it, it works in serial. And so, Lehman's loan review can only go as fast as the trustees' loan review.

And so, if the trustees can review it at three a day, which is the number that -- per reviewer, then the number going to Lehman would be governed by that, by that rate. So, if Lehman moves faster per reviewer, then the reviewer would be sitting and waiting for the next loan to come from step 1.

1 Parekh

2 So, those were -- those were some
3 initial thoughts that I -- that I had in
4 disagreement with Mr. Alread.

5 Q. Okay. Thank you.

6 A. There may be others, though.

7 Q. I'm -- I appreciate that.

8 Can you look at page 7, or which
9 is -- actually, if you want to --

10 I'm looking at the section B,
11 "Overview of the Protocol's Scalability." Do
12 you see that, sir?

13 MR. MUNNO: What page, please?

14 MR. NETZER: That's on page 6, but
15 I want to --

16 My question is going to be about
17 something on page 7, but I just want to
18 show the context.

19 A. Okay. I'm there.

20 MR. MUNNO: Have you read it? Let
21 him read it.

22 A. May I -- may I --

23 BY MR. NETZER:

24 Q. Why don't I ask the question and
25 then --

1 Parekh

2 A. Okay.

3 Q. -- the question can be there. But
4 you feel free to read as much as you want.

5 But my question is going to be or
6 is, and you can take your time to read it, he
7 states on page 6 in the second paragraph
8 under B that "An individual underwriter can
9 perform approximately three forensic reviews
10 per day, while a senior reviewer (who reviews
11 the accuracy and logic of the work and
12 positions taken by the underwriters) can
13 review approximately nine forensic
14 evaluations per day."

15 Is that -- do you have any
16 disagreement with that?

17 A. Just give me a moment.

18 Q. Absolutely.

19 A. Well, I'm unclear as to whether the
20 senior reviewer is reviewing loans that have
21 already been reviewed by the -- by the
22 underwriter. I haven't done any work to
23 ascertain, you know, what a senior
24 underwriter -- a senior reviewer would do.

25 To me that sounds like it's a

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Parekh

quality control position over the top of the underwriter who is doing the three loans per day. I agree with the three loans per day that the underwriter can do.

Q. And assuming -- taking your assumption that the senior reviewer is the quality control over you, do you disagree with nine reviews a day?

A. I don't agree or disagree with that. I haven't done anything to ascertain that, but...

Q. Okay. Now, he describes the information he received from Recovco.

A. I believe that's how it's pronounced, yes.

Q. Do you know that firm?

A. I know of it.

Q. Have you worked with them?

A. I have not personally worked with Recovco. I know Duff & Phelps has worked with Recovco.

Q. And they're a reputable firm, so far as you know? Would you have any reason to think they're not?

1 Parekh

2 A. I'm just trying to --

3 I have a question as to whether I
4 can discuss experiences with Recovco. Am I
5 allowed to ask counsel as to whether I can --

6 Q. If you have a concern about
7 violating confidentiality, I don't mind your
8 discussing that with counsel. But maybe I
9 can ask the question in a way that gets
10 around it, if you want to.

11 So, why don't you hold off, but I
12 don't object to your discussing that with
13 counsel. But maybe I can render it
14 unnecessary.

15 A. Okay.

16 Q. Do you -- will you be taking the
17 position in this matter that Recovco is not a
18 reputable firm?

19 Maybe it's premature. I'm just
20 looking for a way around the issue.

21 MR. MUNNO: I'm going to just lodge
22 an objection and make a statement.

23 MR. NETZER: Go ahead.

24 MR. MUNNO: We've only gotten these
25 reports of Mr. Alread and Mr. Pino and

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Parekh

Mr. Goetzmann, which is not going to be the subject, I believe, of our hearing, on Wednesday, the 10th, and we don't have a position yet about these things because we're literally in the process of reviewing them.

And we had scheduled time for Mr. Parekh's deposition in relation to his declaration concerning the proposed Protocol and not in connection with trying to critique either the declaration of Mr. Alread or the declaration of Mr. Pino.

MR. NETZER: I understand.

MR. MUNNO: So, we're just not there. This is a very compressed period.

MR. NETZER: I understand.

MR. MUNNO: And I'll add further, I'm not -- we haven't had an opportunity even to figure out whether there are confidentiality constraints and the like that he's subject to.

MR. NETZER: Okay. Let's see if --

1 Parekh

2 Go ahead.

3 A. Let me just answer and say at this
4 time I don't believe I'm prepared to answer
5 the question, you know, as to whether I
6 believe Recovco is a reputable firm or not.

7 BY MR. NETZER:

8 Q. No, I'm not -- I mean, you're not
9 prepared because -- what does -- I'm not sure
10 I understand that.

11 A. Well, because I'm not sure that
12 I -- if I answered it, I would be violating a
13 confidentiality agreement.

14 Q. Okay. So, anything else apart from
15 that?

16 A. No, not apart from that.

17 Q. Okay. It states here that an
18 underwriting --

19 That is the expert report --
20 rather, the declaration of Mr. Alread says,
21 "The chart shows an underwriting firm like
22 Recovco (which is not unique in the mortgage
23 industry in terms of size or capacity) can
24 assign up to three additional teams to the
25 Lehman project (bringing the total number of

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Parekh

teams working on the Lehman project to four).
With four assigned teams, Recovco can produce
approximately 8,000 forensic reviews per
month for the Lehman project."

Is that true or false, in your
opinion?

A. That he's written that?

Q. No, no. The statement itself.
Obviously, he's written it. The question is:
Is it correct or not? Let me put it that
way. True or false?

A. Nothing in my experience or the
discussions I've had with Mr. Sauerwein or
Mr. Aronoff lead me to believe that's a
correct statement, no.

Q. Okay. Does your experience lead
you to believe that it's an incorrect
statement?

A. Yes, we at Duff & Phelps do not
believe that's a correct statement.

Q. And the basis for that is what
you've already testified to? Or is there
something specific about Recovco that leads
you to that conclusion?

1 Parekh

2 A. No. It's what we've -- what I've
3 already testified to.

4 Q. Okay. So -- and just --

5 A. Well, let me -- let me stop you
6 there. There may be more that -- to say
7 anything more might be violating a
8 confidentiality agreement. But what I've --
9 what I've testified to previously, again, we
10 don't believe that's a correct answer.

11 Q. But, were you free and not
12 constrained by a confidentiality concern, you
13 would have additional information to provide
14 in response to that question?

15 A. I've had --

16 Q. It's a "yes" or "no" question. I'm
17 not asking you to discuss it.

18 A. Yes, there's -- there is additional
19 information.

20 Q. Well, I'm going to -- just for the
21 record, I'll ask the question. What is that
22 information?

23 MR. NETZER: You can object or
24 instruct or consult. I don't mind your
25 consulting if you want to about the

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Parekh

confidentiality. I don't have any --

MR. MUNNO: Are you able to answer
this question without potentially
violating the confidentiality
undertaking with respect to the matter
to which you are referring?

THE WITNESS: No, I don't believe I
can.

MR. MUNNO: Okay. Then the witness
is unable to answer that question at
this time.

BY MR. NETZER:

Q. Do you agree that --

The statement that Mr. Alread makes
on the bottom of page 6, it says, "The chart
contains two sections."

And then there's the sentence,
which I won't go over again, about what an
individual underwriter and a -- and a senior
underwriter can do and it says, "In addition
to the 57 staff members necessary to complete
2,000 files per month, a forensic review team
needs approximately four managers, six
researchers and data handlers, and three

1 Parekh

2 support staff."

3 Putting aside about what you said
4 about getting the number of reviewers, I
5 understand that, but do you otherwise
6 disagree with the -- with that -- anything in
7 that sentence?

8 A. I don't agree or disagree with
9 anything in that sentence. I don't have
10 any --

11 Yeah, I don't agree or disagree
12 with that.

13 Q. Well --

14 A. I don't agree -- yeah, I don't
15 agree or disagree.

16 Q. Well, if there were 57 staff
17 members and enough loan reviewers, could they
18 review 2,000 files per month? That's all my
19 question is.

20 MR. MUNNO: There may have been a
21 misapprehension of the question before.

22 BY MR. NETZER:

23 Q. It may have. I'm really --

24 A. I mean, 50 -- 57 staff members that
25 review -- you know, are able to complete

1 Parekh

2 2,000 files per month, so 50 --

3 I would have to do the math to make
4 sure I agree. But roughly in my head that's,
5 you know, 180 loans per day, and 30 days
6 seems reasonable.

7 Q. I'm just trying -- what I'm just
8 trying to do, and I appreciate your help, is
9 just to focus on the areas of disagreement
10 which I take it -- I understand loud and
11 clear about there aren't enough quality loan
12 reviewers. Now I'm trying to see if there --
13 putting that -- without conceding that could
14 be done, that there are that many, whether
15 there are other disagreements here with --
16 yes, basically with the math.

17 Then he says -- on the next page he
18 says that there in fact can be four assigned
19 teams, that Recovco can create four assigned
20 teams. And I take it, you don't agree they
21 can produce even one assigned team --
22 withdrawn. That was not well-posed question.

23 Could they put together one team to
24 achieve the 2,000 files per month?

25 MR. MUNNO: Which presupposes 57

1 Parekh

2 members?

3 MR. NETZER: Yeah. Although I

4 don't think they're all --

5 Yes, that's correct.

6 A. 57 is close to 40. And so, to the

7 extent that I --

8 MR. MUNNO: You may answer. He's

9 consulting with his colleague.

10 THE WITNESS: Okay.

11 A. So, I don't know what Recovco can
12 do. You know, I don't agree or disagree with
13 that statement. I probably would disagree
14 because 57, you know, is approximately, you
15 know, 50 percent more than 40.

16 BY MR. NETZER:

17 Q. Okay.

18 A. And based on the information we got
19 from Digital Risk plus our experience, you
20 know, even 40 is a difficult number to reach.

21 Q. Okay.

22 A. So --

23 Q. Sorry.

24 A. No, no.

25 Q. And I take it, it follows that

1 Parekh

2 they're not -- that since even one would be
3 at best a stretch, in your opinion, putting
4 together four would be impossible. Is that
5 fair?

6 A. Yeah, I don't have any belief that
7 they could put together four teams of --

8 Q. Okay.

9 And then he says, "Finally, the
10 chart shows that, through resource sharing
11 agreements with other forensic research
12 firms, Recovco can engage seven teams on the
13 Lehman project, which would produce
14 approximately 14,000 forensic reviews per
15 month."

16 Do you have an opinion -- you have
17 testified already about issues of consistency
18 and quality control with respect to putting
19 teams together that are not within the
20 specific and single mortgage company. But
21 apart from that, do you disagree that Recovco
22 could engage seven teams on the Lehman
23 project?

24 I understand your reservations
25 about quality and consistency. But is it

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Parekh

impossible to put together the seven teams
through -- when I --

I'm sorry. Let me -- I didn't mean
to be partial there.

A. Sure.

Q. Do you agree or disagree with the
statement that through resource sharing
agreements with other forensic research
terms, Recovco can engage seven teams on the
Lehman project?

A. I don't believe that's possible,
no.

Q. And when you say you don't believe
it's possible, is that because of the quality
and consistency concerns? Or is it more than
that, that there just aren't that number of
reviewers available?

Those two things may be related.
I'm not saying they're not. But I'm trying
to understand better your opinion.

A. Based on the discussions that I've
had with the Duff & Phelps team and our
experience, about our experiences, we don't
believe that the -- that the number of

1 Parekh

2 reviewers would be available.

3 And there also could be a serious
4 quality drop-off as you -- as you start to
5 bring in other firms, which is what I
6 interpret a sharing agreement to be. We've
7 just never experienced anything like that,
8 seen it, heard of it.

9 Q. Okay. The --

10 If you want to go to page 8, I want
11 to focus on the -- what Mr. Alread says in
12 the carry-over paragraph, and in particular
13 the carry-over sentence from 8 to 9:

14 "Indeed, in the mortgage industry, there are
15 numerous vendors who provide due diligence
16 and quality control services, such as NewOak
17 Capital, FTI Consulting and Fortace, that
18 could be hired for a project of this nature
19 and scale."

20 Do you have an agreement or
21 disagreement with that statement?

22 A. I agree that there are numerous
23 vendors. I'm not particularly familiar with
24 NewOak or Fortace. I know FTI Consulting,
25 but I did not know that -- or I'm not

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familiar with their loan review due
diligence. But I agree there are numerous
vendors.

Q. Is it your opinion that NewOak
Capital, FTI Consulting and/or Fortace could
not be hired for a project of this nature and
scale?

A. I don't understand the answer to
that.

Q. You don't disagree with it; you
don't have an opinion one way or the other?

A. I don't have an opinion one way or
the other.

MR. MUNNO: Are there any proposed
agreements with them attached to this
report?

I take it the answer is "no."

BY MR. NETZER:

Q. Is there anything --

MR. NETZER: I'm not -- you're
asking me?

MR. MUNNO: Yes.

MR. NETZER: That's my deposition.
That's tomorrow.

1 Parekh

2 MR. MUNNO: Okay.

3 BY MR. NETZER:

4 Q. Let's go to the next subsection of
5 his report, his statement, declaration --

6 A. Um-hum.

7 Q. -- which suggests that you've
8 ignored efficiencies gained from lessons
9 learned as the Protocol proceeds.

10 Is he wrong in stating that "as
11 both sides move forward with the objection
12 and negotiation processes in the Protocol,
13 they will inevitably be able to apply lessons
14 learned from other similar loans and
15 streamline the process"?

16 I'm going to read the second
17 sentence. "Practically speaking, this means
18 that as parties and the review teams start to
19 identify emerging patterns in the loan review
20 process, the review will become faster and
21 more efficient."

22 Do you agree or disagree?

23 A. I disagree in terms of the
24 Protocol.

25 (Discussion off the record.)

1 Parekh

2 MR. MUNNO: Is there a question?

3 MR. NETZER: No.

4 BY MR. NETZER:

5 Q. Have you read any notes in the
6 course of your deposition that your lawyer
7 has given you?

8 A. No.

9 Q. You haven't read any notes as
10 you're sitting at the table, anything he's
11 written?

12 A. I may have looked at his pad when I
13 saw the pen moving out of just --

14 Q. Did you see anything?

15 A. No, I don't recall any words. I've
16 seen writing.

17 Q. Okay. So, your witness -- your
18 lawyer did not tap you and draw your
19 attention to something that he had written
20 that he wanted you to read, correct?

21 A. Not tap me and draw my attention to
22 something, no.

23 Q. Did he show you something he wanted
24 you to read?

25 A. No, not that I know of.

1 Parekh

2 Q. You're sure?

3 MR. MUNNO: He's answered the
4 question.

5 You can answer it again.

6 A. No, I -- and there's nothing I
7 read. I may have looked around. I've been
8 looking around the room.

9 BY MR. NETZER:

10 Q. That's fair, you're allowed to look
11 around. I just wanted to make sure that, you
12 know, your lawyer hasn't passed you a note or
13 shown you something.

14 A. No, I don't think there's anything
15 here.

16 Q. And why do you disagree in terms of
17 the Protocol with what I just read?

18 A. Well, my reading of the Protocol is
19 that -- and I'd have to get the -- you know,
20 read the Protocol to refresh my, you know,
21 memory for the exact language, but was that
22 evidence from one loan can't be used in terms
23 of denial or acceptance of a claim from
24 another, from another loan. And so, I
25 understood that each loan needs to be judged

1 Parekh

2 on its individual ability.

3 In addition, I would have concerns
4 with loans that have multiple breaches,
5 that to their totality add up to a claim, a
6 loan with a claim.

7 And so, loans can't easily or
8 accurately be grouped for a claim. They need
9 to be treated on an individual basis.

10 Q. Under the Protocol?

11 A. Certainly under the Protocol,
12 because my reading of the Protocol requires
13 that the evidence be treated on an individual
14 basis. But even generally, if you were
15 trying to estimate claims on a loan-by-loan
16 basis, you would have to look at the totality
17 of each loan to determine whether or not it
18 has a claim.

19 Q. Okay. So, but I think he's talking
20 about -- putting aside evidence, he's talking
21 about the actual -- the negotiation process.

22 You couldn't generalize in the
23 negotiation process as it moves forward based
24 on extrapolation from previously negotiated
25 resolutions?

1 Parekh

2 A. I don't believe so, because the
3 evidence that would need to come out of the
4 negotiation process as the loan proceeds to
5 through the Protocol would need to be
6 individualized for that loan.

7 Q. So, there are no general -- putting
8 aside the Protocol, you're not of the view,
9 are you, that you couldn't extrapolate from
10 one loan in order --

11 A. Well --

12 Q. -- in order to -- in order to
13 demonstrate the result that should be
14 achieved for another, are you?

15 A. Well, what I analyzed in my report
16 was the Protocol, so I'm not sure that I've
17 done any analysis on the negotiations outside
18 the Protocol, because I have no experience
19 with these types of, you know, negotiations
20 as they're sort of contemplated in the
21 Protocol.

22 So, my analysis was in specific
23 reference to the negotiations that would take
24 place in the Protocol.

25 Q. Okay. Putting aside specific

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Parekh

negotiations under the Protocol, speaking more hypothetically, is there any problem with extrapolating from one Lehman loan, one of the loans in this case, in order to draw a conclusion about any others?

A. I'd be worried that -- yes, I think there would be. I would be worried that by -- you know, by generalizing from one loan to the next, you would be potentially ignoring the totality of what might -- what might create a breach. And so, two loans that have the same breach may not both result in the same kind of claim.

Q. So, how under those circumstances would you be able to demonstrate the damages flowing from the two breaches with respect to those two loans?

A. I don't understand what you're --

Q. I'm sorry. I thought you had said that two loans with a similar breach with the same breach, I thought you --

A. Well --

Q. Let me finish.

A. I'm sorry. Go ahead.

1 Parekh

2 Q. No, no. You probably knew what I
3 was going to say, but let me try to get it
4 clear.

5 I believe you said -- and so, two
6 loans that have the same breach may not
7 result in the same kind of claim. What do
8 you mean?

9 A. Well, I'll speak in generalities
10 here because I don't have anything specific
11 in mind in terms of a --

12 But breaches don't equal put-backs.
13 A breach does not equal a put-back. In some
14 cases it does. But it could be that the
15 degree of the breach is what leads to a
16 put-back, or the degree of a breach along
17 with other breaches in the -- found in the
18 loan review for that loan.

19 And so, making blanket assumptions
20 that everything with a particular breach is
21 or is not a claim could potentially ignore
22 the other breaches or the other degrees or
23 the totality of what each loan review found.
24 And so, I would be very concerned that
25 grouping loans in the negotiation would lead

1 Parekh

2 to imprecise claims.

3 Q. What about grouping loans in the
4 claims process; you could do that, couldn't
5 you?

6 A. In the claims process?

7 Q. In other words, actually
8 determining the amount of a put-back, you
9 could make generalizations about similar
10 breaches among different loans, couldn't you?

11 A. Right. But a breach doesn't equal
12 a claim. Each loan has -- you know, in this
13 process has -- on a loan-by-loan process, and
14 especially in this Protocol, has an
15 individual claim.

16 Q. Putting aside this Protocol,
17 though, is there any other problem with
18 generalizing from among different loans,
19 drawing the same conclusion based on similar
20 breaches that the same put-backs --

21 A. Yeah. I think I've said there is a
22 problem, yes.

23 Q. What is it? I thought you were
24 answering only with respect to this Protocol.

25 A. No, no. I was saying --

1 Parekh

2 So, with respect to the Protocol --

3 Q. No, I'm asking you --

4 A. Right. So, not with respect to the
5 Protocol. In general, the problem is that
6 it -- a claim is made from a combination of
7 breaches and the degree to which those
8 breaches deviate from the reps and
9 warranties, and grouping loans would
10 presuppose that those combinations and those
11 deviations are the same.

12 Q. What's wrong with that?

13 A. Well, they may not be.

14 Q. How do you determine whether they
15 are or they weren't, then?

16 A. You have to review each loan and
17 then put each loan through negotiation. And
18 then both sides would have to agree that each
19 loan is the same. And then once both sides
20 agree that each loan is the same, perhaps you
21 could -- you could group them. But that, by
22 definition, requires the negotiation and the
23 claims process to proceed on an individual
24 basis.

25 Q. How do you think the claims process

1 Parekh

2 should be resolved in this case, then?

3 MR. MUNNO: Objection. There's no
4 foundation. The witness has testified
5 to the contrary about the claims
6 process.

7 You may answer.

8 A. My report analyzes the Protocol and
9 how long it takes. I don't think I've done
10 any work at this time or I'm prepared to talk
11 at this time as to how the claims process
12 should be done.

13 BY MR. NETZER:

14 Q. Well, in your view, how long will
15 it take to complete the claims process in the
16 absence of a Protocol?

17 A. I haven't analyzed that question.

18 Q. Now, in this next paragraph he
19 states, "In Mr. Parekh's November 14, 2014
20 Declaration, he suggests 34,585 to 45,758 of
21 the loans will require review by a Claim
22 Facilitator. Even if those numbers are
23 accurate at the beginning of the project,
24 based on information provided by Recovco, the
25 percentage of loans requiring review by a

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Parekh

Claim Facilitator will likely decrease over time, which in turn will decrease the required timeframe to complete the Protocol. As Lehman has opportunity to identify and relay the relevant facts for a loan, over time patterns will likely develop for similar loans and factual disputes will oftentimes be resolved concurrently for those similar loans."

This may relate to what you just said, but do you disagree or agree with that?

A. I disagree.

Q. For the same reasons or --

A. For the same reasons.

Q. Okay. I won't bother to read it into the record because I don't want to waste the time, but the next paragraph which incorporates or references footnote 9 on page 12, can you tell me if you agree or disagree with that?

If you can't, I'll break it down individually.

MR. MUNNO: We're looking at footnote 9 on page 12?

1 Parekh

2 MR. NETZER: Yes, and the second
3 full paragraph on page 10 because it
4 begins with the sentence, "As discussed
5 in my footnote nine below." So, I
6 thought it made sense to --

7 THE WITNESS: Okay.

8 MR. NETZER: Take your time.

9 THE WITNESS: Let me read that,
10 please.

11 So, we're reading the paragraph
12 that starts with "Generally"?

13 MR. NETZER: No.

14 MR. MUNNO: No. "As discussed in
15 my footnote nine below" on page 10,
16 please.

17 MR. NETZER: Thank you.

18 THE WITNESS: Oh, I see it.

19 (Witness reviewing document.)

20 THE WITNESS: Okay. I've read the
21 paragraph in footnote 9.

22 BY MR. NETZER:

23 Q. Okay. And do you agree or
24 disagree?

25 A. With everything in that -- I

1 Parekh

2 mean --

3 Q. That is my question. But if it's
4 impossible to answer that way, I understand
5 and I'll break it down and be more specific
6 if you prefer. It's --

7 MR. MUNNO: I certainly would
8 prefer that.

9 MR. NETZER: That's fine.

10 A. Yeah, let's just do it that way to
11 make sure you get your questions answered.

12 BY MR. NETZER:

13 Q. That's very reasonable.

14 He -- let's start with the second
15 sentence on -- in paragraph 10 -- I'm sorry,
16 paragraph -- on page 10.

17 Are there types of breaches that
18 can be resolved to both parties' satisfaction
19 without involving a claim facilitator?
20 That's what he states -- he's stating. Is
21 that wrong or right?

22 MR. MUNNO: Objection.

23 You may answer.

24 A. Well, in my analysis, I -- you
25 know, I interpret the claims facilitator as

1 Parekh

2 step 4. And there are certainly breaches
3 that get resolved prior to step 4. So, I'd
4 have to refresh my memory for the exact
5 numbers, but I certainly contemplate breaches
6 that get resolved prior to step 4, either
7 through the Plan Administrator or through
8 negotiation in step 3.

9 Q. Okay. Let's switch, then, to
10 footnote 9.

11 A. Um-hum.

12 Q. Let's turn to that.

13 "It appears over 2,000 of the RMBS
14 Trustees' breaches pertain to missing
15 documentation. Based on my experience, it is
16 likely that a large percentage of those
17 breaches will be cured so long as the
18 documents exist and are available for
19 review." Do you agree or disagree?

20 A. I have not done anything that I at
21 least specifically recall whether the 2,000
22 breaches is the right number, but I would say
23 that with this -- you know, based on
24 discussions with Mr. Aronoff, that he has
25 serious doubt that the documents still exist.

1 Parekh

2 That being said, my understanding
3 is if the documents were able to be produced,
4 then those would go back to Digital Risk to
5 be rereviewed in the time that it might take
6 to make sure that the cure has occurred. So,
7 that's -- that is my thought on that, on your
8 question.

9 Q. Thank you.

10 MR. MUNNO: I just want to be clear
11 that there had been documents that the
12 RMBS trustees have provided underlying
13 the review of the sample that are for
14 settlement purposes only, and it would
15 appear to me from this footnote that
16 this information comes from that.

17 MR. NETZER: I'm sorry. I guess
18 I'm not sure. And therefore?

19 MR. MUNNO: Therefore, it's
20 inconsistent with our agreement that
21 that documentation would not be used in
22 connection with anybody's reports or
23 testimony.

24 MR. NETZER: Let's take that
25 up --

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Parekh

MR. MUNNO: I'm not going to make
an issue about it. I just want it to be
on the record.

MR. NETZER: Lunch?

MR. MUNNO: Yes, now. And it's
next door, ready to go.

MR. NETZER: Is that okay with you?

THE WITNESS: That's fine with me.

(Time noted: 1:05 p.m.)

1 Parekh

2 A F T E R N O O N S E S S I O N.

3 (Time noted: 1:36 p.m.)

4 C H A R L E S A. P A R E K H, having been
5 previously duly sworn, was examined and
6 testified further as follows:

7 FURTHER EXAMINATION

8 BY MR. NETZER:

9 Q. Back to your report, Mr. Parekh.

10 A. My report.

11 Q. Yes.

12 A. Okay.

13 Q. The November one. Would you please
14 turn to page 4, which is where --

15 A. I'm on page 4.

16 Q. Yeah, to the table. And can you
17 please explain why you've broken out 169
18 separately from the 219? I'm abbreviating
19 here. 169,611,453 versus 219,315,775.

20 A. So, that represents a range of
21 costs from --

22 Well, let me start over. Was there
23 a question or --

24 Q. I'm sorry. Withdrawn.

25 A. Okay.

1 Parekh

2 Q. I'd rather -- what I mean to do is
3 call your attention to the distinctions in
4 the two scenarios, number of loans for review
5 157,218 in scenario 2, number of loans for
6 review 209,395 in scenario 1. Scenario 1
7 being on page, scenario 2 being on page 5.

8 A. Okay.

9 Q. And the difference in the two --
10 the reason for the different amounts is, sir?

11 A. So, let me -- let me just step
12 back, and I think it'll be more illustrative
13 to first just explain the difference
14 between -- stick with table 1 -- the 209,395
15 and the 213,974. And then I can just explain
16 what those -- what the numbers represent.

17 But you asked specifically --

18 Q. That's fine.

19 A. -- about the 209,395. That number
20 is a number of loans minus the ones that have
21 already been reviewed by the trustees, the
22 4,579. So, if you add the 4,579 to the
23 209,395, you see the number 213,974.

24 Q. Thank you.

25 A. And I'll explain what that is.

1 Parekh

2 And then similarly on scenario 2.

3 So, what that 213,974 represents is the
4 covered loans in the covered trusts, which is
5 416,091 -- 416,091 covered loans in the
6 covered trusts, less the loans that have paid
7 in full as of the date that I got that number
8 which is June 2014.

9 Q. Okay. And --

10 A. And so, I'm sorry.

11 Q. No, no, that's fine.

12 A. Keep going.

13 Q. Scenario 2, okay.

14 A. Yeah, scenario 2, table 2, which is
15 on page 5, what that 161,797 represents --
16 and, again, that's the number you asked me
17 about plus the loans that have already been
18 reviewed.

19 What that 161,797 represents is the
20 loans that have already suffered loss as of
21 June 2014, as well as the loans that are
22 projected or expected to suffer a loss in the
23 future.

24 Q. That is the 157,000?

25 A. Yes.

1 Parekh

2 Q. Okay. So, then the loans already
3 suffered a loss and are projected to suffer a
4 loss in the future?

5 A. Correct.

6 Q. Okay. And what is the additional
7 balance that brings you to 209,000 in
8 scenario 1? What loans are those?

9 A. So, the 209,000 loans are loans
10 that have suffered a loss and all the
11 remaining active loans.

12 Q. Okay.

13 A. So, that's a larger number.

14 Q. It is a larger number. So, what we
15 have -- so, the 157,000 includes the loans
16 that have suffered a loss?

17 A. Um-hum.

18 Q. Plus the loans that are projected
19 to suffer a loss?

20 A. Um-hum.

21 Q. And then the 209 includes an
22 additional group of loans, correct?

23 A. Correct.

24 Q. That have neither suffered a loss
25 nor been projected to suffer a loss?

1 Parekh

2 A. That is correct, yes.

3 Q. And, in your experience, is there
4 any difference in the likelihood that those
5 roughly 50,000 loans will suffer a loss than
6 the loans that are projected to suffer a loss
7 or suffer losses?

8 A. I'm not quite sure what you mean by
9 "difference in likelihood."

10 Q. Well --

11 A. I don't understand your question.

12 Q. What is the likelihood that those
13 loans will suffer a loss, the 50,000?

14 A. That number --

15 I guess it's easier to work
16 backwards.

17 Q. However you'd like, that's okay.

18 A. Yeah, and I'm not -- you know, only
19 trying to answer your question this way.

20 If we were to start the Protocol,
21 the 416 loans would be too big a number to
22 put through the Protocol. I mean, it would
23 be -- because that involves loans that are --
24 that are paid in full. And even if we were
25 to put them through the Protocol, no claim

1 Parekh

2 would arise from those loans.

3 So, we get rid of those loans and
4 what you're left -- and then let's just get
5 rid of the loans that have already been
6 reviewed because for -- because that's the
7 number you were asking me about right now.
8 That results in 209,395 that would need to go
9 through the Protocol.

10 But in order to give the Protocol
11 the biggest benefit of the doubt, I
12 understand that some number of loans, as you
13 go through the Protocol, might pay off and
14 might move into the paid in full category. I
15 don't know which loans those are, but based
16 on the -- on the projections of the -- of all
17 the trusts as a whole, we can estimate the
18 number of loans.

19 And so, it is an attempt to give
20 the Protocol the benefit of the doubt by
21 saying, if we were to go through this and
22 because this process takes time, some loans
23 may move to the paid in full.

24 And that number, though it's
25 actually likely to be -- the number of loans

1 Parekh

2 that would need to be realized would likely
3 be higher than the 157,218, that's giving the
4 Protocol the biggest benefit of the doubt
5 saying, "You know what? Loans will pay off
6 and, you know, at the end of this, we do
7 expect this number at some point in the
8 future, maybe far into the future, to pay
9 off."

10 But if we were to do this without
11 including any of the expected payoff loans,
12 we would end up with, you know, 161,000
13 roughly loans.

14 Q. Okay. And have you done any
15 analysis of the like -- that given the fact
16 these loans have performed thus far, is that
17 a fair statement? Again, the roughly 50,000,
18 is there a lesser likelihood that they will
19 become non-performing loans as a result of
20 that?

21 In other words, is there any --
22 over time, does the likelihood diminish -- if
23 a loan has been performing now for six years,
24 is the likelihood that it will keep
25 performing higher than in connection in the

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Parekh

loans projected already to produce a loss, in
your experience?

A. I think it depends as to what --
when in time you make that assessment.

These trusts are relatively
seasoned, they're older trusts. And I think
at this point the likelihood of default
remains relatively constant, faulting with
the loss relatively constant going forward.
So, I don't think the likelihood changed.

Earlier in the life of a trust you
might have more variables around that, but
our projections, you know, at Duff & Phelps
would take into --

Well, let me just -- let me stop
there. I think --

Q. I understand you think the
remainder will remain constant because
they're seasoned.

A. Um-hum.

Q. Okay. But what is the likelihood
that will remain constant?

A. I can't tell you that because
it's different for every trust.

1 Parekh

2 I mean, this is an aggregate
3 number, but we -- but we projected this
4 differently for every trust.

5 Q. Okay. What is it for the different
6 trusts?

7 A. Well, I don't have that information
8 in front of me. That would require me to go
9 back and look at data.

10 Q. There's not -- but you have --
11 Pardon me. Sorry. Go ahead.

12 A. It would require me to look at data
13 on 255 trusts, but that analysis did go into
14 this -- into those projections.

15 Q. What analysis?

16 A. The analysis of looking at data on
17 255 trusts. I just don't have that in front
18 me.

19 Q. Well, can -- we'd like to see it.
20 Can we see it? If it's part of the analysis,
21 we'd like to see it. What form does it take?

22 A. It's computer projections.

23 Q. Okay.

24 RQ MR. NETZER: I'd call for the
25 production of that.

1 Parekh

2 BY MR. NETZER:

3 Q. I mean, you're not -- I mean, is it
4 20 percent, 100 percent? Is there
5 100 percent likelihood that those loans will
6 perform?

7 A. That's not a question I can answer
8 because we didn't do the analysis on a
9 loan-by-loan basis.

10 We did it on a trust-by-trust basis
11 and we projected a default rate and other
12 things on a trust basis, on an aggregate
13 trust basis.

14 Q. And I assume none of them were --

15 And did any of the trusts, were
16 they -- were they 100 percent likelihood that
17 the loans in it would remain performing?

18 A. No, I don't believe so, but I can't
19 recall at this time.

20 Q. What was the range, generally?
21 Just --

22 A. I can't recall that at this time.

23 Q. The lowest -- can you give the
24 lowest and highest?

25 A. No, not at this point.

1 Parekh

2 RQ MR. NETZER: We would call for the
3 production of that. Thank you.

4 BY MR. NETZER:

5 Q. Duff & Phelps does loan reviews
6 itself?

7 A. It does.

8 Q. What's the largest it's ever done?

9 A. Along with Cross Check, we
10 participated as a firm in the -- in the
11 forensic underwriter reviewing in ResCap
12 which would have been about 7,000 loans.

13 Q. And how were the loans allocated as
14 between Cross Check and Duff & Phelps?

15 A. Loans were randomly allocated to
16 either Cross Check or Duff & Phelps, and then
17 we reviewed at a -- at a quality check level
18 by Cross Check.

19 Q. How did you overcome the issue of,
20 you know, sharing computers?

21 A. I don't know that there was an
22 issue of sharing computers.

23 Q. Well, how did you overcome the --
24 how were you able to use consistent standards
25 in the review between the two firms?

1 Parekh

2 A. We established standards
3 beforehand. And then at the beginning of the
4 review, you know, for the first -- I don't
5 know the period but I would think about, you
6 know, the first month or two, we reviewed and
7 rereviewed loans.

8 We used multiple reviewers on the
9 same loan to make sure that RMBS reviewers
10 were arriving at the same -- at the same
11 conclusions until we had ironed out those
12 problems.

13 Q. But what was it that went so
14 seriously wrong in that process?

15 A. Did I say something went seriously
16 wrong? I don't think anything went seriously
17 wrong.

18 Q. It did not? Okay. So, everything
19 went fine, no problems?

20 A. Well, that's also -- I don't think
21 I said there were no problems either.

22 Q. Well, let me put it this way.

23 Based on Duff & Phelps's
24 collaboration with another firm, Cross Check,
25 in doing a loan review, what were the

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Parekh

issues -- why wasn't it possible to establish
consistent standards?

A. Cross Check was acting as a -- as a
contractor with Duff & Phelps. As part of
Duff & Phelps, we had everybody in the same
room, or actually it was two rooms. And
consistent standards were established because
we were operating under one single working
agreement as Duff & Phelps.

Q. Oh. Why was Cross Check willing to
do that?

MR. MUNNO: Objection.

A. I'm not sure --

MR. MUNNO: You can answer.

A. -- what you mean, why was
Cross Check willing to do --

BY MR. NETZER:

Q. Why was it willing to submit to the
same --

There was no problem; is that your
testimony --

MR. MUNNO: Objection.

BY MR. NETZER:

Q. -- during that --

1 Parekh

2 MR. MUNNO: He's already said there
3 were problems.

4 BY MR. NETZER:

5 Q. What were the problems?

6 A. Well, let me -- let me just answer
7 your question, why was --

8 Cross Check was willing to work
9 under Duff & Phelps because Duff & Phelps was
10 hired to do the loan review and we wanted
11 Cross-Check's expertise to be part of the
12 that loan review.

13 Q. Why wouldn't Cross Check work for
14 Digital?

15 MR. MUNNO: Objection.

16 You may answer.

17 MR. NETZER: Pardon me?

18 MR. MUNNO: I said, "Objection; you
19 may answer."

20 MR. NETZER: Sorry. I didn't hear.

21 A. Cross Check and Digital are
22 different firms. They have different
23 management, they have different rules and
24 different standards. I don't -- I don't have
25 an answer as to whether they would be willing

1 Parekh

2 to or not. I haven't asked Cross Check.

3 Q. Can you think of any reason why
4 they wouldn't be willing?

5 A. Yes, I can think of -- I can think
6 of reasons. They may not be willing to use
7 the same pricing, they may not be willing to
8 use the same quality control. They may not
9 be willing to come to an agreement as to what
10 the output should look like. There --

11 Q. We --

12 MR. MUNNO: Let him finish.

13 Keep going.

14 A. You know. So, those are all --
15 those are some reasons I can think of now.
16 There may be others, but I don't work for
17 Cross Check or Digital Risk, so --

18 BY MR. NETZER:

19 Q. And why -- how was Duff & Phelps
20 able to persuade Cross Check to collaborate?

21 A. We hired Cross Check as
22 subcontractors to be Duff & Phelps, to work
23 as Duff & Phelps. So, we hired them as
24 employees for their expertise. They were
25 subject to all of our rules and standards.

1 Parekh

2 And they agreed to it in that -- in that time
3 period, you know, of two -- you know, over
4 two years ago to do that. I don't know what
5 they would agree to now.

6 Q. My question is: What makes you
7 think that Digital can't achieve with
8 Cross Check what Duff & Phelps achieved with
9 Cross Check?

10 MR. MUNNO: Asked and answered.

11 You may answer it again.

12 A. I think that Digital and
13 Cross Check are competitors, and they have
14 standards and a role and a place in the
15 marketplace and, you know, their own pricing
16 and their own -- and their own standards.
17 And I think those two firms could have
18 differences in collaborating. Digital -- I
19 mean Cross Check and Duff & Phelps are not
20 competitors.

21 BY MR. NETZER:

22 Q. And they have the same standards?

23 A. Duff & Phelps was able to set the
24 standards for the ResCap review and
25 Cross Check was able to agree to them.

1 Parekh

2 Q. And what is the basis for your
3 conclusion that Cross Check and Duff & Phelps
4 are not competitors and Digital and
5 Cross Check are competitors?

6 A. Digital and Cross Check work do
7 forensic underwriting reviews. Duff & Phelps
8 will do forensic underwriting reviews, but
9 that is not something that we typically sell
10 or try to engage in unless somebody has a
11 specific reason for us to do it.

12 Q. What was the specific reason for
13 you to do it in that case?

14 A. Make sure that I can discuss this,
15 but my understanding of the specific reason
16 is that this was early on in -- you know,
17 earlier on. You know, it was two and a
18 half -- maybe the decision was made closer to
19 three years ago, but two and a half years
20 ago. And the standards of how to review
21 things may not have been established,
22 especially in a bankruptcy as large as
23 ResCap.

24 The clients weren't sure exactly
25 what they needed at the time and they needed

1 Parekh

2 a firm that had possibly more flexibility in
3 terms of financial advisory than a -- than a
4 forensic underwriting firm would provide
5 only.

6 Q. And why did Duff & Phelps stop
7 doing forensic underwriting after that?

8 MR. MUNNO: Objection.

9 You may answer.

10 A. Well, one, I don't think we've
11 stopped. We just generally don't sell it.
12 But we're very expensive. Most of these
13 firms are able to do forensic underwriting at
14 a cost that's considerably less than Duff &
15 Phelps can provide.

16 BY MR. NETZER:

17 Q. I'm still trying to understand why
18 you're not competitors, though. If you
19 sell -- you do sell the service, people --

20 A. No.

21 Q. You don't sell it?

22 A. We don't --

23 Q. People just come to you and force
24 themselves upon you?

25 MR. MUNNO: Let's not argue with

1 Parekh

2 the witness. He answered "no." If you
3 want him to elaborate, he will.

4 A. We don't advertise ourselves as
5 service. People do come to us because they
6 know our personnel have expertise in this.
7 They know that at least the ResCap, we've
8 done it in the past. And if someone asked us
9 to do it, we would do it.

10 But since, ResCap Duff & Phelps has
11 not engaged, to my knowledge, in a -- in a
12 forensic underwriting without working with
13 another firm.

14 BY MR. NETZER:

15 Q. Okay. So, why can't Duff & Phelps
16 hire Cross Check here?

17 A. I don't understand. "Here" means
18 what?

19 Q. Well, you're saying that you don't
20 think Cross Check and Digital would enter
21 into the kind of arrangement that Duff &
22 Phelps had with Cross Check because of the
23 different kind of relationship that Digital
24 and Cross Check has versus the kind of
25 relationship Duff & Phelps and Cross Check

1 Parekh

2 has.

3 For example, Digital and
4 Cross Check you say are competitors and
5 Duff & Phelps and Cross Check are not
6 competitors; true so far?

7 A. Yes.

8 Q. Okay. What stops Cross Check --
9 excuse me -- Duff & Phelps from engaging
10 Cross Check on behalf of the trustees to
11 expand the loan review team?

12 A. Well, I don't think that there's a
13 business reason for Duff & Phelps to do that.
14 The marketplace has changed. The cost
15 structures have changed. And typically what
16 we see now is trustees hire their own loan
17 review firms.

18 I'm sure from a business
19 perspective we would love to do it that way,
20 but I'm not sure the clients see that as an
21 efficient or practical way to do it.

22 Q. Okay. But nothing stops --

23 Does anything stop the trustees
24 from hiring Cross Check in addition to --
25 sorry -- Digital?

1 Parekh

2 A. I think I've testified to the
3 reasons why the trustees would not want to
4 hire multiple loan review firms.

5 Q. Well, why can't Duff & Phelps
6 establish standards like they did when they
7 worked with Cross Check and both Cross Check
8 and Digital could be subject? Why wouldn't
9 that work? Why is that business model no
10 good?

11 MR. MUNNO: Objection.

12 You may answer.

13 A. I think at this point forensic loan
14 review has developed into an industry where
15 these firms are differentiating -- trying to
16 differentiate themselves on their quality and
17 speed and whatnot. And I just don't believe
18 that they would be willing to subject to --
19 subject themselves to rules and standards.

20 We just haven't had experience.
21 And let me be very clear. Even in ResCap
22 where we subcontracted with another firm,
23 there weren't multiple loan review firms. We
24 were only able to do one firm. Or we only
25 did one firm under -- you know, under the

1 Parekh

2 Duff & Phelps umbrella.

3 BY MR. NETZER:

4 Q. And Duff & Phelps didn't do any
5 loan reviews in that case?

6 A. That's not true. I testified that
7 we --

8 Q. So, Duff & Phelps did loan reviews
9 and Cross Check did loan reviews under the
10 Duff & Phelps umbrella?

11 A. Cross Check provided the
12 higher-level reviewers, I think Mr. Alread
13 referred to them as the "senior reviewers,"
14 as well as the training and the software
15 systems and things like that. And Duff &
16 Phelps provided the junior-level reviewers.

17 Cross Check also provided some
18 junior-level reviewers at the beginning,
19 while Duff & Phelps -- while Duff & Phelps
20 employees were training to become loan
21 reviewers.

22 Q. But that's the only instance where
23 loan reviewers worked side-by-side from
24 different companies, worked side-by-side on
25 the same loan review?

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Parekh

A. Yes, I believe that's true.

Q. It's never happened --

A. Well, I mean, in my experience. I mean, I know you don't mean -- but I just wanted to be clear.

Q. No. I'm asking -- it's your testimony, is it not, that it's never happened except that one time?

A. Wait, wait. Never happened where?

MR. MUNNO: With Duff & Phelps
or --

MR. NETZER: With anyone.

MR. MUNNO: -- in the industry?

A. Oh, I can't testify to that. I have no idea whether it's happened or never happened or --

BY MR. NETZER:

Q. Well, how -- then what is the basis for your saying it couldn't happen here? Let me put it that way.

MR. MUNNO: Objection. I don't think he testified that it couldn't happen.

But go ahead.

1 Parekh

2 A. Yeah, I haven't testified that it
3 couldn't happen. I've testified that I have
4 no experience with it happening. And I --
5 and I don't know that, you know, my --

6 Yeah, I have no experience with
7 that happening.

8 BY MR. NETZER:

9 Q. So, what is your basis for
10 believing it couldn't happen?

11 MR. MUNNO: Asked and answered.

12 You may answer it again.

13 BY MR. NETZER:

14 Q. You have no experience; it's not
15 based on experience. So, why doesn't it
16 happen?

17 MR. MUNNO: Asked and answered.

18 You may answer it again.

19 A. Why it doesn't -- why doesn't it
20 happen?

21 BY MR. NETZER:

22 Q. Yeah. Why can't -- why can't
23 different loan companies work on the same
24 project --

25 MR. MUNNO: Asked and answered.

1 Parekh

2 BY MR. NETZER:

3 Q. -- if it's a large enough project?
4 That's what I'm trying to understand.

5 A. I think there are quality control
6 problems. I think there are different
7 pricing schemes, different management
8 structures, different locations. All of
9 these things may cause logistical problems
10 in doing -- in being able to do this.

11 Q. You can't think of a way to fix the
12 location? The location of what?

13 A. Of where the reviewers are. If you
14 need to have quality control, that's done
15 face-to-face. And you have managers. Those
16 managers might have to move around the
17 country.

18 It's not impossible to fix. It
19 would just add to the cost, the location
20 issue.

21 Q. Okay. You were able to overcome
22 the review standard issue in your case,
23 correct? That is the Duff &
24 Phelps/Cross Check case.

25 A. Yes. And we had to send people to

1 Parekh

2 different locations. And we had two, we had
3 two locations.

4 Q. How did you do that?

5 A. Airplane.

6 Q. Oh, this -- and pricing. It can't
7 be done, you mentioned, because of pricing.
8 That was another obstacle.

9 A. I said it may have problems with
10 pricing.

11 Loan review firms charge
12 different -- they have different packages
13 available, and those packages may cost
14 different amounts, and they may not be
15 willing to standardize pricing across firms
16 because they may have different strengths and
17 weaknesses. They may have different
18 relationships with outside vendors that
19 they -- they may have different contracts
20 negotiated with data sources.

21 All of these things seem to make it
22 very difficult to -- such that we've had no
23 experience with working with -- you know, in
24 loan reviews that involve multiple firms.
25 These are all things that I can think of that

1 Parekh

2 would cause issues.

3 Q. Well, you did it in the case of
4 Cross Check. Did you try and do it and fail
5 to do it in other instances?

6 A. Not that I recall.

7 Q. Okay. So, you don't have personal
8 experience with these obstacles actually
9 preventing it from happening, correct?

10 A. I don't have personal experience
11 other than the discussions I've had with
12 Mr. Aronoff and Mr. Sauerwein, who also do
13 not believe it would be possible.

14 Q. Well, just to say -- you're not
15 saying that they have personal experience
16 with trying to make it happen and failing
17 you, are you?

18 A. I don't know the answer to that. I
19 know that my personal experience is when
20 asking the question to them, based on all of
21 their experience, they don't think it's
22 possible.

23 Q. But you didn't ask, "Have you ever
24 tried to do it other than the time we did it
25 successfully with Cross Check?"

1 Parekh

2 A. I don't recall exactly what I've
3 asked them, but the -- but the -- what I
4 believe I asked them was "Could it be done?"
5 Not -- you know, "could it be done?" I asked
6 them if it could be done, and they said they
7 did not believe so.

8 Q. And when they said they did not
9 believe so, did you say, like, "Well, why
10 were we able to do it with Cross Check?" Did
11 you push back on it at all?

12 A. No.

13 One, they weren't involved with the
14 ResCap loan review, so it wouldn't have been
15 a reasonable question to ask them.

16 Q. You were, though?

17 A. I was involved.

18 Q. And your experience was that it
19 worked out just fine, what you did in that
20 case?

21 A. Right, because Cross Check provided
22 the higher-level reviewers and the training
23 and they were working with Duff & Phelps
24 employees, Duff & Phelps e-mail addresses,
25 Duff & Phelps phone numbers and all of that.

1 Parekh

2 So, it was -- it was a different
3 relationship. And --

4 Q. Different relationship than what?

5 A. Than one in which two separate but
6 equal firms might work -- try and work
7 together.

8 (Discussion off the record.)

9 BY MR. NETZER:

10 Q. In paragraph 29 of your report,
11 checking on the --

12 A. Yes.

13 Q. -- paragraph 29, where does the
14 \$300 an hour number come from?

15 A. That's based on what I think is a
16 reasonable assumption for what a negotiator
17 might charge, maybe a junior non-partner
18 lawyer, something like that, what -- someone
19 from the trustees' office.

20 It's just a reasonable assumption
21 for an hourly cost that someone with that
22 type of training might have.

23 Q. What type of training?

24 A. The type of training to understand
25 breaches of reps and warranties sufficient to

1 Parekh

2 negotiate these.

3 Q. So, you're assuming a lawyer?

4 A. A lawyer or someone very familiar
5 with loan review -- loan reviews.

6 Q. And where -- can you elaborate on
7 how the \$300 an hour number you determined
8 was reasonable. What did you -- what went
9 into that determination that it was
10 reasonable?

11 A. I thought about what a lawyer might
12 charge, what someone as a senior executive
13 might charge who is from a loan review firm,
14 and that type of person. But it's -- you
15 know, it is -- it's an estimate. It could be
16 more. You know, you may be -- I don't think
17 it would be less, but it certainly could be
18 more.

19 But that was what I thought was a
20 reasonable estimate for what that -- what a
21 person might charge as an hourly rate.

22 Q. Do you know people who engage in
23 this thing, negotiation of loans?

24 A. Not in the context of Protocol
25 because I've never --

1 Parekh

2 Q. Outside the Protocol, just
3 negotiating loans.

4 A. I mean, yes, and all of those
5 people are senior attorneys, and they charge
6 much more than 300 an hour. But I assumed --
7 I want to give the Protocol the benefit of
8 the doubt and assume that you don't need a
9 partner at a -- at an AMLaw 100 law firm to
10 be doing this.

11 Q. Turning to what Mr. Alread has --
12 his declaration --

13 A. Okay.

14 Q. -- he states --

15 MR. MUNNO: What page, please?

16 MR. NETZER: On page 15, sorry.

17 BY MR. NETZER:

18 Q. Second full paragraph under
19 section C.

20 A. Um-hum.

21 Q. "Based on Lehman's submissions to
22 the Court, I understand that Lehman seeks to
23 preserve its indemnification rights against
24 the originators who sold loans containing
25 alleged breaches of representations and

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Parekh

warranties to Lehman." Do you see that, sir?

A. I see that.

Q. Okay. Is that your
understanding --

Is your understanding the same as
Mr. Alread's?

MR. MUNNO: Objection; no
foundation.

Go ahead, you may answer.

A. I have no idea. I haven't thought
about that issue at all.

BY MR. NETZER:

Q. How -- under -- does the Protocol
provide a means for preserving those
indemnification rights?

MR. MUNNO: Objection.

You may answer.

A. I'm not sure I understand what
the --

I haven't thought about the
indemnification rights. I'm not sure that I
understand what they are. And there -- I
think that sounds legal to me, and I'm not at
all a lawyer. And so, I haven't thought

1 Parekh

2 about it. I don't think I could answer that
3 question.

4 BY MR. NETZER:

5 Q. Well, are you saying --

6 I understand you're not lawyer.

7 Are you saying you don't know what
8 indemnification rights are under a loan
9 agreement?

10 MR. MUNNO: Objection. I'm not
11 sure that I've seen indemnification
12 rights under the loan agreement.

13 MR. NETZER: That's interesting,
14 but can I get an answer to my question?

15 MR. MUNNO: If you can do so.

16 A. I mean, I --

17 MR. MUNNO: Do you have any in this
18 record?

19 MR. NETZER: Can I take my
20 deposition here and then we can move on.

21 BY MR. NETZER:

22 Q. Go ahead, sir.

23 MR. MUNNO: Well, I don't want the
24 witness to speculate about --

25 MR. NETZER: Then why don't you

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Parekh

object and we'll proceed.

MR. MUNNO: Objection.

MR. NETZER: You have objected.

Please let the witness answer now and
spare us the speaking objections. Thank
you.

A. So, I'm -- I mean, I generally
understand what, you know, indemnification
rights are, but I don't -- I don't understand
legalese specifically, what they would
involve.

And so, I'm not sure if the
Protocol provides for that. I mean, I just
haven't studied what --

BY MR. NETZER:

Q. Do you have any understanding of --
as to why Lehman has indemnification rights
against the originators who sold loans
containing alleged breaches of
representations and warranties?

A. I mean, I'd have to now -- I just
don't -- that's not an issue I'm familiar
with.

MR. MUNNO: I just want to be clear

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Parekh

on the objection because there's
nothing --

MR. NETZER: There's no question
pending.

MR. MUNNO: I'm making an
objection.

MR. NETZER: To what? There's no
question pending.

MR. MUNNO: There's no foundation.
You have nothing in this record.

Go ahead.

MR. NETZER: Well, we're building a
record, you see? So, sometimes I don't
know what the witness is going to say
until I ask the question.

MR. MUNNO: Okay.

BY MR. NETZER:

Q. So, do you disagree with anything
in section C of Mr. Alread's declaration?

A. Well, let me -- may I have a moment
to read it?

Q. Absolutely.

A. Thank you.

Q. Take as long as you'd like.

1 Parekh

2 (Witness reviewing document.)

3 A. There's nothing that strikes me
4 here that I disagree with, but that's very
5 largely based on the fact that much of what's
6 written here I have no knowledge of, or a
7 deep legal understanding of.

8 So, if there's something specific
9 I'd be happy to answer, but as a -- you know,
10 as a general --

11 Q. Okay.

12 A. -- statement.

13 Q. Sure.

14 Page 16 --

15 A. Um-hum.

16 Q. -- Mr. Alread says, "In the regular
17 course of my business at SMLT, I've been
18 presented with repurchase demands from
19 companies buying loans from my company.
20 Since SMLT does not originate mortgage loans,
21 we take these claims back to the party who
22 sold the loans to SMLT."

23 What is your experience about being
24 presented with repurchase demands from
25 companies buying loans from my company --

1 Parekh

2 from your company?

3 MR. MUNNO: Objection.

4 You may answer.

5 A. I -- my -- I have no experience
6 because my company doesn't buy or sell loans.
7 So, no one has come to my company.

8 Was that your question? I'm not
9 trying to be glib at all. I'm trying --
10 BY MR. NETZER:

11 Q. That's definitely responsive, but
12 I'll follow up and let me ask the question a
13 little differently.

14 What's the experience of Duff &
15 Phelps in rendering advice to companies that
16 have been presented with repurchase demands
17 from companies buying loans from your client
18 that you're advising?

19 MR. MUNNO: Objection.

20 You may answer.

21 A. Can you repeat that. I'm sorry.

22 BY MR. NETZER:

23 Q. Sure.

24 Does Duff & Phelps -- I understand
25 Duff & Phelps doesn't buy or sell mortgages.

1 Parekh

2 A. Yes.

3 Q. Does it ever render advice to
4 companies that buy or sell mortgages?

5 A. Yes.

6 Q. Okay. And what is your experience
7 in -- with respect to repurchase demands from
8 companies that bought loans from your client?

9 A. Um-hum.

10 MR. MUNNO: Objection.

11 You may answer.

12 A. So, my only experience is that I
13 know people at the firm do this type of work
14 and -- but my experience has been --

15 Well, I know -- I know people at
16 the firm do give this kind of advice to
17 clients who have had repurchase demands made
18 against them. I have not been specifically
19 involved that I can recall, at least right
20 now, in any of these matters in --

21 BY MR. NETZER:

22 Q. Well, has -- so, has Duff & Phelps
23 given any advice to the trustees here about
24 how Lehman would deal with going back to the
25 parties who sold loans to Lehman?

1 Parekh

2 A. Not --

3 MR. MUNNO: Objection.

4 You may answer.

5 A. Not that I know of. There may have
6 been discussions that I haven't been party
7 to, but not that I know of.

8 BY MR. NETZER:

9 Q. But in the absence of Protocol, how
10 will Lehman preserve its rights under against
11 those companies?

12 MR. MUNNO: Objection; no
13 foundation.

14 You may answer.

15 A. I haven't done that analysis. I
16 don't know the answer to that.

17 BY MR. NETZER:

18 Q. What -- how much -- in the absence
19 of a Protocol, what will the cost be to
20 Lehman of not being able to preserve those
21 claims?

22 MR. MUNNO: Objection; no
23 foundation.

24 You may answer.

25 A. I don't know the answer to that.

1 Parekh

2 BY MR. NETZER:

3 Q. And no one at Duff & Phelps has
4 given that any thought?

5 A. I don't know the answer to that
6 question either.

7 Q. To your knowledge, no one has?

8 A. To my knowledge.

9 Q. Not that you're aware of?

10 A. Not that I'm aware of. I can't
11 answer that they have or have not.

12 Q. Before I forget, ResCap -- I'm
13 sorry. Cross Check --

14 MS. HAGGLUND: Cross Check.

15 BY MR. NETZER:

16 Q. When Duff & Phelps worked on ResCap
17 with Cross Check, what was the size of -- how
18 many loan reviewers at any one time were
19 working on it?

20 A. To the best of my recollection, at
21 any one time it was approximately 20 junior,
22 you know, loan underwriter reviewers.

23 Q. That includes both at Cross Check
24 and Duff & Phelps?

25 A. Yes.

1 Parekh

2 Q. And --

3 A. You know, that was probably --

4 Maybe every now and then there was
5 a couple more, but that would be sort of the
6 average size of the review.

7 Q. When you say it was approximately
8 20 junior loan underwriter reviewers, is
9 there -- were there other kind of loans
10 underwriter reviewers --

11 A. Well, there were senior --

12 Q. -- that were working on it?

13 A. There were senior people who would
14 rereview, but they wouldn't -- you know, they
15 wouldn't sort of increase the pace, only slow
16 it down. They would rereview for quality.
17 These are, you know -- you know, I think
18 Alread referred to as the "senior reviewers."

19 Q. And the 20, were they 20 Duff &
20 Phelps or 20 Cross Check?

21 A. By the end, there were 20 Duff &
22 Phelps. But, you know, before that, you
23 know, especially during the training process
24 and earlier on, Cross Check may have either
25 sat by Duff & Phelps employees or reviewed a

1 Parekh

2 loan first and then given it to a Duff &

3 Phelps employee to review --

4 Q. Okay.

5 A. -- again.

6 Q. And the Duff & Phelps employees who

7 were doing the review, before they did the

8 review, what was their job at Duff & Phelps?

9 A. They were typically analyst-level
10 staff or maybe a little more senior than
11 that. So, these are people who are trained
12 in finance and accounting, audit, those types
13 of things.

14 Q. And how long was the ResCap review
15 process?

16 A. Boy, I believe -- to the best of my
17 recollection, it took over a year.

18 Q. Okay. And of the 20 people who
19 were reviewing toward the end from Duff &
20 Phelps, prior to that year how many loan
21 review processes had they worked on?

22 A. Zero.

23 Q. So, all of them learned how to do
24 it that year?

25 A. Yes.

1 Parekh

2 Q. All 20?

3 And how long did it take them to
4 learn how to do it before they were doing it
5 on their own?

6 A. Several -- you know, a month --
7 probably a couple of months.

8 But let me just caution you that
9 that review at that time served a very
10 different purpose. It didn't -- well, not a
11 very different purpose but the output was
12 very different. It didn't produce the same
13 type of output that we see in a standard now
14 from the firms. It really served to estimate
15 a claim in a settlement, as opposed to
16 producing the evidence that a top-flight firm
17 like Digital Risk produces now.

18 Honestly, it's one of the reasons
19 Duff & Phelps doesn't necessarily want to be
20 in the loan review business.

21 Q. So, would it be fair to say that
22 the industry, the loan review industry, if
23 that's the right word, has changed
24 substantially in the last two years?

25 MR. MUNNO: Objection.

1 Parekh

2 You may answer.

3 A. I would say it's fair to "change."

4 I don't want to put the word
5 "substantial" on it because I don't know what
6 "substantially" means. But, yes, it has
7 changed.

8 BY MR. NETZER:

9 Q. Let me be -- try and be more
10 specific, then. Would it take more than a
11 month or two to learn how to do a loan review
12 today as opposed to two years ago?

13 MR. MUNNO: For what purpose?

14 BY MR. NETZER:

15 Q. Go ahead, sir.

16 A. I think --

17 MR. MUNNO: Objection.

18 You may answer.

19 A. I think for --

20 MR. NETZER: He may answer whether
21 or not you give him permission. He's
22 required to.

23 Go ahead.

24 A. Well, I'm going to answer. So --

25 BY MR. NETZER:

1 Parekh

2 Q. I know.

3 A. For the purposes of doing some --
4 an analysis like we had to do for ResCap,
5 which didn't require as much of the
6 documentation and the mapping of the reps and
7 warranties, the matching of loan numbers to
8 servicer numbers and things like that, which
9 we did, you know, a lot of -- which had to go
10 on at Lehman, and for the purpose of
11 estimating the claim for a settlement offer
12 which was on the table, I think you could
13 train people in one to two months.

14 For the purpose of doing a forensic
15 loan review like we did in Lehman, I don't
16 have an answer to that because the trustees
17 decided to hire a top-flight firm where the
18 people are already trained.

19 Q. When you say "we" did, you mean
20 Digital Risk?

21 I'm sorry. When you say "like we
22 did in Lehman," Duff & Phelps did at Lehman?

23 A. I meant the trustees' team is the
24 "we."

25 Q. Cowen and Digital Risk?

1 Parekh

2 A. Cowen, Digital Risk, whatever input
3 the trustees and their counsel had on that,
4 if they did have any.

5 Q. But Cowen did the loan review on
6 the sample?

7 A. No. Digital Risk did the review.

8 Q. By itself without any help from
9 Cowen?

10 A. I can't tell you if Cowen helped or
11 not. I don't -- I don't know. That was not
12 something I know about.

13 Q. Well, who did the -- who did the
14 loan analysis on the sample?

15 A. Digital Risk. Digital Risk did the
16 loan review. The forensic loan under --
17 reunderwriting.

18 Q. And Cowen did not?

19 A. Cowen did not do that.

20 I think your question was: Did
21 they have any input, or something along those
22 lines. You know, they may have -- they're
23 experienced mortgage people, so they may or
24 may not.

25 I don't know. I wasn't part it, so

1 Parekh

2 I can't speak to it. I just didn't want to
3 give the impression that I had some knowledge
4 that I don't.

5 Q. Fair enough.

6 Back to paragraphs 28 through 30 of
7 your report.

8 A. Okay.

9 Q. Yeah. You say, "I assume that each
10 of the four Trustees" -- this is in paragraph
11 28 -- "can individually, simultaneously, and
12 continually negotiate with Lehman at a rate
13 of ten loans per day, each -- or 40 loans per
14 day in total," and so forth.

15 Do you see that, sir?

16 A. I do.

17 Q. What's the basis for your
18 assumption?

19 A. Based on discussions with
20 Mr. Aronoff and Mr. Sauerwein as well as, you
21 know, my reading of -- or my -- you know,
22 my experience in how complicated these loans
23 are, I thought that a good estimate was, you
24 know, a little less than an hour to negotiate
25 for each loan, because it's complicated, so

1 Parekh

2 it takes some time.

3 But these are things that people
4 want to be motivated to push through because
5 there are so many loans. And so, 10 loans a
6 day in an eight-hour day is -- you know, I'd
7 have to do the math again, but it seems like
8 it's 40 minutes, 45 minutes per loan. So --

9 Q. And what did Mr. Sauerwein and
10 Mr. Aronoff tell you when you consulted among
11 them?

12 A. Well, again, none of us have any
13 experience in the types of negotiations that
14 are -- that are occurring in this Protocol,
15 but they have been involved in the course of
16 their career and in negotiating repurchase
17 demands and they say -- you know, they inform
18 me it's a -- it's a complicated process that
19 takes a long time.

20 I haven't studied it. But even in
21 the brief that went around the last day or
22 two from Lehman, there's a transcript there
23 where people are negotiating over loans and
24 it seems like that just -- you know, a small
25 number of loans is taking a lot of time and

1 Parekh

2 effort.

3 So, it is a process that I tried to
4 represent here that takes a lot of time and
5 effort, but I wanted to give the benefit of
6 the doubt of the Protocol. And so, I assume
7 that people would be able to move through
8 these expeditiously, you know, about 40 or 45
9 minutes per loan on average.

10 Q. You personally have no experience
11 that's how long it takes, correct?

12 A. I've never negotiated a repurchase
13 demand. I have only spoken with those who
14 have been involved with it.

15 Q. Those being the two gentlemen, your
16 two colleagues?

17 A. Well, I mean, I've spoken with
18 other clients on other matters, mostly
19 attorneys who have -- who have been involved
20 with negotiating repurchase demands, as well.

21 So, that's my personal experience,
22 is that -- is that in other matters, there
23 have been repurchase demands made and there
24 have been settlement negotiations on these
25 demands. But I personally have not

1 Parekh

2 negotiated a repurchase demand myself.

3 Q. Well, what expertise are you
4 bringing to bear to your opinion here? Let
5 me put it that way.

6 A. I'm bringing to bear the expertise
7 of Duff & Phelps on what we believe a
8 repurchase demand would take at a minimum to
9 negotiate.

10 Q. I'm asking you what expertise -- I
11 understand. My question now is: What
12 expertise do you, as opposed to your
13 colleagues at Duff & Phelps, bring to bear on
14 the opinion you're rendering for the Court
15 here?

16 A. I bring the results of my
17 discussions with them.

18 MR. MUNNO: As long as you're
19 pausing, can I have a bathroom break,
20 please?

21 MR. NETZER: Absolutely.

22 (Recess taken.)

23 BY MR. NETZER:

24 Q. Paragraph 34 of your report, sir.

25 A. Okay, I'm there.

1 Parekh

2 Q. This concerns the Court reviews for
3 Final Resolution.

4 "Based on my experience, and based
5 on my discussions with colleagues at Duff &
6 Phelps, it is not unrealistic (sic) to expect
7 that a Court would be able to review and
8 determine breaches and damages on a
9 loan-by-loan basis at rate of seven loans per
10 day, but I assume that such an overall risk
11 rate would be reached if the parties gained
12 experience over the over the years of
13 review."

14 MR. MUNNO: One moment, please.

15 You said "unrealistic."

16 MR. NETZER: Did I?

17 MR. MUNNO: I think you misread it.

18 "It is not realistic." I think you may
19 have misread it.

20 MR. NETZER: What it says is "it is
21 not" -- oh, I'm sorry, you're
22 absolutely -- I did say "it is not
23 unrealistic." I remember it, because I
24 remember thinking that's lithotone to
25 myself.

1 Parekh

2 BY MR. NETZER:

3 Q. "It is not realistic." So --

4 "Based on my experience, and based
5 on discussions with my colleagues at Duff &
6 Phelps, it is not realistic to expect that a
7 Court would be able to review and determine
8 breaches and damages on a loan-by-loan basis
9 at a rate of seven loans per day." And then
10 you continue. That is the end of the
11 sentence, but I just -- that's enough for
12 purposes of asking the question.

13 Well, what experience of yours are
14 you referring to?

15 A. My experience with this is based on
16 how complicated the breach claims are.

17 So, when we review breach reports
18 from loan review firms like Digital Risk,
19 looking at the -- looking at the loan and
20 understanding and discussing how long that
21 would take with -- you know, with others at
22 Duff & Phelps, it's a very slow process.

23 And then also it's based on my
24 discussions with Mr. Aronoff and
25 Mr. Sauerwein and their experiences in

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working in put-back matters where Courts have
potentially have to rule or have ruled.

So, their input to me was that
seven loans per day is brisk, and they know
of -- and know of matters -- that those types
of Court reviews have taken much, much longer
per loan.

Q. What are those matters?

A. I don't know. That is their
statement to me, that seven loans a day is
brisk. And I agree with that, you know,
based on my experience on how complicated
these matters are.

Q. But their -- what they told you
about were certain court proceedings,
correct?

A. They told me that, in their
experience, Courts could not easily review
seven loans per day.

Q. And the experience they were
referring to was experience of Courts
deciding these issues, correct?

A. I don't know -- I don't know the
answer to that. They told me that based on

1 Parekh

2 their experience. I can't speak specifically
3 to what their experience is, but they have
4 been in the industry for a long time. So,
5 they have familiarity with Court review
6 times.

7 Q. Has Mr. Alread been in the industry
8 a long time?

9 A. I actually don't know that, so --

10 Q. What I'm driving at --

11 A. -- I'm guessing.

12 Q. Is that enough for you to accept
13 the information that the person giving you
14 the information is experienced?

15 A. It's part of it. But it's also
16 that I believe that seven loans per day is a
17 reasonable estimate, because that's looking
18 at, you know, about a loan an hour, which
19 seems like a reasonable number to me.

20 You know, could it be faster? I
21 suppose. But I don't have any reason to
22 think it would -- it would go much faster.
23 And, you know, I -- it could be slower as
24 well. But this is -- this is the reasonable
25 estimate, I believe is the time it would

1 Parekh

2 take. It doesn't --

3 It seems to me, you know, a
4 reasonable estimate to say that, you know,
5 about an hour to review a claim that has gone
6 through an entire Protocol. So, it's the
7 Plan Administrator has seen it, it's gone
8 through negotiation. The claims facilitator
9 has made a ruling. All of this has happened,
10 and it's still not settled. And, therefore,
11 these are likely to be the most contentious,
12 most complicated rulings.

13 And just the logistics of it,
14 right? If you're talking about a lawyer
15 making an argument for each side, as well as
16 an expert on each loan stating the case,
17 there's just logistics that are going to take
18 some time.

19 Q. What did the lawyers tell you about
20 that?

21 MR. MUNNO: The lawyers?

22 A. What lawyers?

23 BY MR. NETZER:

24 Q. The lawyers you consulted about
25 this.

1 Parekh

2 MR. MUNNO: Objection.

3 A. I'm not -- I haven't consulted any
4 lawyers.

5 BY MR. NETZER:

6 Q. No. It says here you're talking
7 about how long the proceedings in court would
8 take, right?

9 A. Um-hum.

10 Q. Who were the lawyers who you asked
11 that? What did you discuss --

12 You didn't discuss this with a
13 lawyer?

14 A. Not in forming my opinion. I mean,
15 lawyers have read my report.

16 Q. And what did they say and what did
17 you say about this?

18 You consulted them before you wrote
19 your report, didn't you?

20 MR. MUNNO: Objection.

21 You may answer.

22 A. I -- I'm not sure what you mean by
23 "consulted" them, but I formed the opinion
24 based on what I think it would take and, you
25 know, those of the colleagues of mine at

1 Parekh

2 Duff & Phelps. A lawyer never -- I just want
3 to be very clear. The lawyer never came to
4 me and said, "This is what it should take to
5 do this."

6 I've been in court. I know that
7 things take a long time in court. So, I was
8 trying to give a reasonable estimate of each
9 loan based on the idea that each loan -- each
10 side would present an expert who would make
11 the case for or against, that being a
12 put-back, the judge would listen to the -- to
13 the advice of each expert and then render
14 their ruling.

15 Q. And it would be experts, though,
16 that would do it?

17 A. Yes. I mean, somebody would have
18 to serve as a -- as an expert for why this
19 is -- this is a loan that has a claim or not.

20 Q. Okay. So, each side would present
21 their expert, right?

22 I'm just going through your
23 opinion.

24 A. Yes, yes.

25 Q. And then there would be what, an

1 Parekh

2 opening, a closing?

3 A. Well, I don't know how the judge
4 would choose to do that, actually. I
5 can't -- I haven't done that -- I haven't
6 done that analysis. I've given what I think
7 is a reasonable estimate for a -- to do the
8 whole loan on a loan-by-loan basis.

9 Q. My question is more --
10 I understand --

11 A. Um-hum.

12 Q. -- that things take time and so
13 forth.

14 A. Things take time.

15 Q. Things take time.

16 Now, I'm asking, apart -- what's
17 your expertise that you're offering to the
18 judge here about how long it would take?
19 That's what I'm trying to understand. What
20 is it that you're telling Judge Chapman that
21 she couldn't figure out on her own without an
22 expert witness to this?

23 A. Well, I'm not -- okay. Let me be
24 very clear, I'm not telling Judge Chapman
25 anything here in terms of --

1 Parekh

2 Are you talking about in my report
3 or are you talking about in these hearings
4 that are contemplated in step 5?

5 Q. I'm talking about what you say in
6 your report about the hearings contemplated
7 in step 5.

8 A. Okay. So, what I'm -- what I'm
9 saying in my report is that the way that I've
10 estimated this time is that each side would
11 need to provide information to the judge,
12 maybe with an expert, usually with an expert
13 but -- maybe not always with an expert. But
14 on average, they would be able to do about
15 seven loans per day.

16 Q. No, I understand. I'm trying to
17 understand the expert -- what is the
18 expertise that you offer to the judge to
19 persuade her that this is so?

20 MR. MUNNO: He's answered that
21 question.

22 BY MR. NETZER:

23 Q. Apart from things take time?

24 MR. MUNNO: You may answer it
25 again.

1 Parekh

2 THE WITNESS: Okay.

3 A. So, I have been to court many times
4 and I've seen how long things can or cannot
5 take. I have spoken to Mr. Aronoff and
6 Mr. Sauerwein as to their experiences with
7 how long it may take to -- for a Court to do
8 these types of, you know, reviews.

9 And I have also reviewed breach
10 reports from firms like Digital Risk and know
11 how long it takes me to read through these
12 types of reports to understand, you know,
13 what it would take. And, you know, I -- and
14 that leaves me to believe what I -- you know,
15 I think is a reasonable estimate.

16 BY MR. NETZER:

17 Q. In the absence of using the
18 Protocol, how long will it take for the Court
19 to reach final resolution on these disputes?

20 MR. MUNNO: Objection. I'm not
21 sure I understand the question.

22 But you may answer it.

23 A. Well, do you mean on total or on a
24 per-loan basis?

25 BY MR. NETZER:

1 Parekh

2 Q. Either, whatever you feel more
3 comfortable with.

4 A. Well, on a per-loan basis, I don't
5 think the Protocol affects, you know, the
6 time. I mean, I think that roughly seven
7 loans per day is reasonable, is a reasonable
8 amount of time. I don't think that's --

9 Q. In the Protocol or outside the
10 Protocol?

11 A. Outside the Protocol or in the
12 Protocol.

13 Q. And how many -- were more than --
14 how many special masters would be involved in
15 this?

16 MR. MUNNO: Objection. Presupposes
17 special masters can even be appointed by
18 a bankruptcy judge.

19 But you may answer.

20 A. I don't know. I contemplated the
21 rate of, you know, one judge --

22 Let me just read what I wrote on my
23 report. It's, you know, one Court dedicating
24 one full week a month.

25 BY MR. NETZER:

1 Parekh

2 Q. What was your basis for excluding
3 the use of multiple special masters?

4 MR. MUNNO: Objection; foundation.

5 You may answer.

6 A. I -- well, honestly, necessarily --
7 well, let me just start over.

8 I don't think I have a basis for
9 excluding special masters. What I estimated
10 was that this judge in this court would be
11 doing this work.

12 BY MR. NETZER:

13 Q. One judge?

14 A. And I wouldn't presume, you know,
15 to make any speculation really on telling a
16 judge how to run their courtroom, but this is
17 the estimate that I made because I thought it
18 was reasonable.

19 Q. Paragraph 23, you state your
20 assumption that the trustees being able to
21 commence a loan review one month after
22 requesting the loans from the applicable
23 servicers. Do you see that?

24 A. I do.

25 Q. Is there -- what is the reason that

1 Parekh

2 the trustees have not already commenced loan
3 reviews?

4 MR. MUNNO: Objection.

5 A. Well, they've commenced the loan
6 review on the -- on the 5,000 sample.

7 BY MR. NETZER:

8 Q. Fair enough. Why haven't they
9 commenced loan reviews with respect to more,
10 with respect to others?

11 MR. MUNNO: Objection.

12 You may answer.

13 A. I don't believe the trustees
14 believe it's necessary to do a loan review on
15 the other loans. They -- they've estimated
16 their claim already, and to do additional
17 loan reviews would take time and money that
18 they don't need to use to estimate their
19 claim.

20 BY MR. NETZER:

21 Q. What was the basis --

22 Did they get -- obtain a court
23 determination that it was unnecessary to
24 commence the loan reviews?

25 MR. MUNNO: Objection.

1 Parekh

2 A. I don't -- I don't know the answer
3 to that.

4 BY MR. NETZER:

5 Q. Did they -- did they do it with the
6 consent of Lehman?

7 MR. MUNNO: Do what with the
8 consent of Lehman?

9 BY MR. NETZER:

10 Q. Not to commence the loan review
11 except with respect to the loans in the
12 settlement.

13 A. Are you asking me did they not do
14 something with the consent of Lehman?

15 Q. In other words, when they --
16 You're saying they didn't do it,
17 correct?

18 A. I'm saying they have not done a
19 loan review beyond the loan review of the
20 5,000 loans sample that they've already done.

21 Q. And I believe you said that the
22 reason they didn't is they don't believe it's
23 necessary, correct?

24 MR. MUNNO: Objection. His answer
25 stands as it was.

1 Parekh

2 BY MR. NETZER:

3 Q. And I just want to --

4 Fair enough.

5 A. That's my belief. There may be
6 other reasons that I'm not privy to or part
7 of.

8 Q. Exactly. And but for that, but for
9 that belief that it wasn't necessary, did
10 anything stop them from beginning the loan
11 reviews -- when could they have started?

12 MR. MUNNO: Objection.

13 A. I suppose as soon as they justified
14 spending the trust money with whoever they
15 have to justify that to.

16 BY MR. NETZER:

17 Q. Okay. But apart from that, was
18 there anything else -- apart from their
19 decision that they shouldn't do it, was there
20 any logistical prohibition on their doing it,
21 say, starting in 2008?

22 MR. MUNNO: 2008? Objection.

23 You may answer, if you know.

24 A. I have no -- I have no idea. I
25 wasn't even involved in this matter in 2008.

1 Parekh

2 BY MR. NETZER:

3 Q. What about 2009?

4 A. I wasn't involved in 2009. I
5 don't --

6 Q. Could it have been started in 2013
7 if they wanted to, if they determined it
8 was -- the cost justified it?

9 A. Well, sure. I mean, an additional
10 loan review could start. There would be
11 significant time and effort and cost involved
12 in getting that going. But if you're saying
13 "can" versus "should," they can start it.

14 Q. Okay. When could they have first
15 started it?

16 And yes, could, not should. I
17 understand that they didn't think they should
18 and you didn't think they should. I'm
19 asking -- now we're in the "can" realm. I'm
20 just trying to understand.

21 MR. MUNNO: Objection.

22 A. I mean, I would have to speculate
23 to that because I don't know what the status
24 of these loans were and where they were and
25 which master servicers had them and all these

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Parekh

sort of logistical issues, who had -- you
know, did Digital Risk have the capacity?
Were there loan review firms available? All
that sort of thing.

I mean, I don't know the answer to
that. I mean, there are lots of variables
about when they could have started.

BY MR. NETZER:

Q. When did they first make their
claims, the trustees --

MR. MUNNO: Objection.

BY MR. NETZER:

Q. -- in the bankruptcy court?

MR. MUNNO: If you know, you may
answer.

A. I don't know the answer to that,
actually.

BY MR. NETZER:

Q. When did the Lehman bankruptcy
commence?

A. From my reading in the media, about
2008.

Q. When did the loan review commence
for the sample?

1 Parekh

2 A. I can't recall exactly because, you
3 know, that was prior to Duff & Phelps'
4 retention. Sometime, you know, prior to
5 2012, I believe, is my best recollection.

6 Q. In paragraph 21, you state that you
7 make the assumption that the trustees can
8 request and receive all requested loan files
9 from the applicable services within a period
10 of three years. Do you see that, sir?

11 A. I do.

12 Q. You state that the assumption is
13 based on conversations with Digital Risk.
14 Based on anything else?

15 A. It's largely based on the
16 conversations with Digital Risk and their
17 experience with requesting the 5,000 loans
18 and how difficult that was.

19 I do know from my other loan review
20 experience of that, requesting loans,
21 getting -- and getting the loans and getting
22 them ready for review, which means splitting
23 out the files, making sure that, you know,
24 loan A is in fact loan A. When you find out
25 loan B is going back to the servicer and

1 Parekh

2 getting loan A when they accidentally gave
3 you loan B, dealing with the missing files,
4 dealing with missing documents within the
5 file, dealing with nonresponsive servicers --
6 and there's multiple servicers here -- all of
7 this can take a significant amount of time.

8 Now, when I did the analysis in the
9 Protocol, I did give full credit to the fact
10 that many loans may come in very quickly and
11 they can get queued up and processed and
12 ready to go, and the review would start
13 within one month. But I didn't want the --
14 you know, to undervalue the effort that's
15 really involved in getting these loans.

16 Q. Part of that effort, I take it, is
17 the --

18 And who at the trustees would be
19 making that effort?

20 A. All of the trustees, you know,
21 would have to be involved with that effort,
22 as well as Digital Risk and all of the
23 master -- the applicable servicers and master
24 servicers that have those loan files. All of
25 those parties would be involved.

1 Parekh

2 Q. Okay. And how many people at
3 Digital Risk would be involved?

4 A. There is a team that they call a
5 "loan fulfillment team." I don't know the
6 number of people that are on that team. It
7 was managed by this gentleman whose name is
8 Hector, but -- I believe his name is Hector.
9 But there are multiple people involved in
10 this process.

11 Q. And what is the relationship
12 between the amount of time it will take to
13 request and receive the loan files from the
14 applicable servicers and the number of people
15 assigned at either -- at Digital Risk or
16 others to assist the trustees in that
17 process?

18 A. I don't think it's contingent on
19 the number of people as long as you have --

20 It's really about, you know, making
21 phone calls, getting the servicers to
22 respond, processing the .pdf. You could --
23 you know, there's some labor involved in
24 that. You have to diligence what comes in
25 and do -- you know, match servicer numbers

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Parekh

with loan numbers and all the significant efforts.

So, there are some places where you can speed up the process slightly, but really it's just a back-and-forth between those who have the loan files and those who need the loan files. It's -- you know, in my experience, it has never been a smooth process.

But I will, you know, stress to you again that in my timing -- you know, in my analysis of the timing, this effectively takes one month, right? There is effort in getting this. That's why I want to show the three years there. But in my calculations of the timing, the review starts after one month and the loans are able to trickle in or come in. I won't say trickle in. Come in fast enough. There's always loans to review.

I also, you know, note that in that 5,000 sample, there were almost 500 loans that they never got. And I think that's also going to be a significant problem in this -- in this Protocol, is how do you -- how does

1 Parekh

2 that Protocol deal with the -- with the loans
3 that just are never going to come in? Or,
4 you know, missing documents that -- you know,
5 loans with -- sorry -- with a significant
6 number of missing documents as well that
7 render them unreviewable and having to go
8 back and forth with the servicer and master
9 servicer there to get those.

10 Q. How long did it take the Digital to
11 get the 4,579?

12 A. About 18 to 20 months, I believe.

13 Q. And that was based -- and how many
14 people at Digital were working on that?

15 A. I don't know the answer to that.

16 Q. And -- well, ballpark, 20?

17 A. I don't know the answer to that. I
18 don't think I could ballpark it because I --
19 I worked with, you know, Mr. Phillips and the
20 loan -- and the head of the loan fulfillment
21 team and all of that, you know, and I spoke
22 to them. But all of that effort occurred
23 before Duff & Phelps's involvement.

24 Q. Right. So, what did Mr. Phillips
25 tell you about how many people were involved?

1 Parekh

2 A. I never asked him that question.

3 Q. What is your basis for believing --

4 I believe you believe, maybe you don't
5 believe it. But what is your basis for the
6 opinion that having more people involved
7 couldn't accelerate the pace?

8 A. No, no, I don't believe I said
9 that. I think I said the opposite.

10 I think there are points where you
11 could speed up the process. The loan
12 matching -- the looking at .pdfs and things
13 like that, you could speed up the pace of
14 getting them ready to review.

15 But there is also just a component
16 of going back and forth to other
17 organizations, these master servicers. And
18 no matter how many people you have sitting at
19 Digital Risk, once you've asked the master
20 servicer for a new request, you're just
21 waiting for them to turn that request around.

22 Q. Well, what's the basis of your
23 determination that it would take more than
24 18 -- than the 18 or so months or 18 months
25 to two years if that was --

1 Parekh

2 18 to 20 months, maybe you said.

3 A. Well, because it's 30 to 40 times
4 the number of loans than the initial request
5 of 5,000.

6 Q. Anything else?

7 A. No. It's the volume, it's the huge
8 volume of loans that --

9 So, every problem that takes some
10 time, that -- you know, that took -- that
11 took time in the 5,000, you have multiples
12 and multiples of those same problems, and so
13 you're going to just take more time.

14 Q. Tell me more about the problems
15 that they encountered. And did Mr. Phillips
16 elaborate on what were the most serious
17 problems, what was really taking up the time?
18 Did he tell you?

19 A. It -- so, what Mr. Phillips told me
20 is that there were times that files would
21 arrive misidentified. There were times when
22 files would arrive split into multiple pieces
23 that had to be stitched back together.

24 There were times when a single file
25 was in -- sorry -- multiple loan files were

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in a single electronic file. There were times when an electronic file had no loan in it, it was just blank.

There were illegible pages that had to, perhaps, go back to the master servicer and get those pages rescanned, if possible. Loan numbers --

So, you have to match the request, right? One of the -- one of the issues is you have to match the request and catalog everything, and loan numbers are not necessarily consistent across different parties. And so, loans had to be identified and mapped and reidentified.

And so, all of these types of things. And this is consistent with my experience in other loan requests as well.

Q. Oh, tell me about those experiences.

A. So, we had similar problems that I just testified to in ResCap. And then in these other matters, we have issues. And I -- you know, I don't want to really call them problems. They're just -- there are

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things that you have to do to get the loans ready to review. It's -- you know, it's just not possible that on -- you know, on day 1 of your request, that everything comes in ready to go.

It's just these things have been sitting around, they're old files. They've been scanned, they've been scanned at a high-speed, in some cases without a lot of due diligence. Things get lost, things get misplaced. Parts of the documents are in one place and the other parts are in another place. All of these things just take time.

Q. And what is your basis --

Now, it was 18 to 20 months for the sample, correct?

A. That's correct.

Q. Why would it take -- maybe I'm misreading this. The estimated three-year time frame to request and receive files, based on Digital Risk's typical loan request, for the purposes of a review for breaches of representations and warranties, so the 18 to 20 month project was not their typical?

1 Parekh

2 A. No, no, it was, it was.

3 What I meant by "typical" was that
4 unfortunately this Protocol requires
5 potentially something far more difficult.
6 So, the Protocol requires 43 groups of
7 documents to be in a -- in a claim -- I
8 forget exactly what it's called, but a claim
9 packet, I'll just call it.

10 And so, in a Digital Risk typical
11 loan file request, they will request and say,
12 "You give me what you have, and as long as it
13 has the minimum number of documents that a
14 loan file should have, I'll review -- I'll
15 review it and make a determination based on
16 what you present to me."

17 But because in the Protocol a claim
18 requires 43 categories of documents from the
19 mortgage files, the credit file and the
20 servicing file, that loan -- that loan
21 request could be far more onerous because
22 they can't just review what they get sent.
23 They may have to go back and forth and --
24 with the servicer and old servicers, you
25 know, where servicing has been transferred to

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Parekh

get all of these 43 categories of documents
that are required in the Protocol.

So, that's why I said the word
"typical" there.

Q. Okay. Just to be clear, maybe I
misunderstood. But I think you clarified.

So, when you say the estimated
three-year time frame to request and receive
files is based Digital Risk's typical loan
file request, you mean that it's based on
typical Risk's -- Digital Risk's typical 18
to 20 months, but then you layer on the items
you mentioned in the sentences that follow to
get to the three years?

A. Let me -- let me restate that
because I don't think you quite said it the
way that I would.

Q. Maybe not.

A. So, a typical loan file request
that Digital Risk engages in for the 5,000
took 18 to 20 months.

My estimate is that if Digital Risk
were to do a typical loan file request of the
same types of materials that they would need

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Parekh

for that 5,000 but to try to do it for the
full 200,000 -- 167,000 or 200,000 loans,
that would take them about three years.
That's what I'm saying.

But it could take longer if in fact
to satisfy the Protocol they have to go back
and forth and get all of these 43 categories
of documents that are required by the
Protocol. So, Digital's -- Digital Risk's
typical loan file request does not entail
that extra effort. And I didn't include it
in my calculations, but I did want to point
it out.

Q. I think I understand.

A. Okay?

Q. So, but what Digital Risk did in
connection with the sample was its typical
loan request process, correct?

A. Yes.

Q. Okay. And how does that work?

They ask for -- the trustee asks
a -- makes a global request to each servicer.
How many servicers are there? Can you
elaborate on that?

1 Parekh

2 You've talked a little bit about
3 the difficulties and identified some of them.

4 A. Um-hum.

5 Q. How many servicers are there?

6 A. I don't know as I sit here today.
7 There are multiple ones.

8 Q. You probably know better than me.
9 We -- are we talking 500, 5,000?

10 A. I don't know how many they have --
11 they have to request from. I don't think
12 it's 500 or 5,000. I think it's a smaller
13 number than that.

14 Q. Okay.

15 A. But --

16 Q. You do know more than me, way more.
17 So, I'm wondering if there could --

18 I understand you're saying that the
19 typical pace or rate or whatever would
20 increase because of the number. I'm trying
21 to understand if there could be economies of
22 scale. Wouldn't that impact the pace, could
23 it diminish?

24 A. Well, actually I agree with that.

25 I mean, if there weren't economies of scale,

1 Parekh

2 then if the 5,000 took 18 to 20 months, then
3 30 to 40 times would take 30 to 40 times
4 that. I certainly don't think that.

5 The three years reflects the fact
6 that, you know, going to these servicers and
7 they're sending you their files to send 30 to
8 40 times as many files doesn't take 30 to 40
9 times as long.

10 Q. So, did -- I -- in -- was it
11 Digital that made the request?

12 A. Digital Risk made -- well, I mean,
13 actually don't know the answer to that,
14 whether the trustees formally make the
15 request or Digital Risk makes the request.
16 But it was -- it was the group of Cowen,
17 Digital Risk and the trustees at that time
18 who made the request.

19 Q. And, again, you're not a lawyer,
20 but -- and why is it that the servicers
21 respond at all?

22 A. My understanding is they're
23 contractually obligated to.

24 Q. Okay. And --

25 A. But to the extent of how much

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Parekh

effort and how much time they need to put
into it, whether they can charge for those --
for those requests, I don't know, and I don't
know if it's standardized or varies. But --

Q. Well, I'm just -- I'm a lawyer and
I don't know the answer to this, but what --

My question is: What pressure can
the trustees bring to bear on the servicers
to accelerate?

MR. MUNNO: Objection.

You may answer.

A. I don't know if there is pressure
that the trustees can bear other than
potentially threats of court intervention and
things like that. You know, maybe business
relationships. I don't know what --

And then I would also say that if
the documents aren't there or the documents
are difficult to be found or if they're
stitched together or split up, you know, no
amount of pressure can make someone do the
impossible. It's just going to take as long
as it takes even if somebody is working very
hard at it.

1 Parekh

2 MR. NETZER: Let's take a little
3 break. I'm getting near the end.

4 MR. MUNNO: Okay.

5 (Recess taken.)

6 BY MR. NETZER:

7 Q. You mentioned the -- some of the
8 changes in the practices and standards of
9 loan companies in the past two years the
10 subject came up. And could you please tell
11 us what is the reason for those changes.

12 A. Well, what I've -- what I mentioned
13 was that loan review firms have -- you know,
14 in what I've experienced, have become better
15 at the -- you know, the output that they give
16 you. And I think the reason for that is
17 marketplace demand.

18 When I first got involved with
19 these types of RMBS matters, you were -- the
20 rules and standards for what qualified as a
21 repurchase claim weren't necessarily settled.
22 And I think in many cases the market and
23 possibly the legal area has settled on what
24 qualifies a claim. But I know certainly the
25 market has started to demand certain things

1 Parekh

2 and I think the firms have adapted to that.

3 They've --

4 Q. And when you say "since I started,"
5 is that like two and a half years ago?

6 A. Two and a half years ago.

7 Q. Thank you.

8 And you say the changes are based
9 on demand for those changes?

10 A. Yes.

11 Q. And why is it that the demand --
12 there was a demand for those changes?

13 A. So, when I was first involved, I
14 think there were still uncertainties. Or
15 maybe not still. There were -- there were
16 many uncertainties as to what qualified as a
17 claim, what qualified as a -- you know, a
18 repurchase claim. And at least in the
19 marketplace, that's -- some of that has
20 become resolved.

21 And also the ability to map to --
22 directly to reps and warranties and what the
23 output on that looks like and matching and
24 the ability to electronically review the reps
25 and warranties has gotten better, the

1 Parekh

2 technology. And so, the standards for the
3 marketplace have changed because it can be
4 done now and, therefore, for that price it
5 should be done.

6 Q. When you say "for that price" --

7 A. Well, for a price. I mean, if it
8 can be done and I'm paying you to do it, you
9 know, I'm going to expect a good product.
10 And I don't mean "I" particularly, I mean I
11 as a marketplace.

12 Q. And just -- has the increased or
13 the changed -- it's -- well, stay --

14 What I mean, the increased demand,
15 is it just an increase in the quality, if you
16 will, as I heard you just said, or is there
17 just more -- is the industry growing in size?

18 A. I don't know the latter part. What
19 I'm talking about is specifically about
20 quality. And you said increased demand
21 and --

22 Q. No, I thought that's what you
23 meant.

24 A. Yeah, I don't mean quantity of
25 demand. I just mean the services and quality

1 Parekh

2 of services demanded.

3 Q. And I take it -- you mentioned two
4 principal things. One was that some of the
5 uncertainties as to what qualified as a claim
6 have been resolved. And the second thing is
7 just the technology, if you will, fairly
8 generally to map reps and warranties has
9 gotten better. Anything else?

10 First of all, I don't mean to -- if
11 I'm misrepresented what you said, I don't
12 mean to.

13 A. No, you're getting it right.
14 There's nothing specific I recall right now.

15 Q. Do you know what it was that caused
16 the -- maybe it is a legal question.

17 Well, actually, let me just ask
18 you: What are you referring to? What are
19 the uncertainties as to what qualified as a
20 claim -- a repurchase claim -- that have
21 become resolved?

22 A. Well, those are legal questions
23 when you say "resolved," but I -- but I can
24 say from a market standpoint what we -- what
25 we're really looking at is -- now is, you

1 Parekh

2 know, what did the loan look like at
3 origination?

4 The trusts -- the trusts are buying
5 loans and there's many -- you know, there are
6 potentially places to look for breaches, but
7 what's become very standardized now is: What
8 does this loan look like at origination? And
9 that -- that's what Digital Risk provided to
10 us in its assessment.

11 And I don't know that when we did
12 the ResCap review, for example, that's always
13 what we were looking for in our review.

14 Q. So, again, your words, not mine --
15 can you -- can -- when you say what the loans
16 looked like at origination, can you elaborate
17 on that?

18 In other words, or what's the
19 difference between what's being done now,
20 i.e., the loan -- looking at the loans as
21 they looked at origination, versus what you
22 were doing two and a half years ago when
23 there might have been other things?

24 A. Well, we may -- two and a half
25 years ago, we may have been looking at items

1 Parekh
2 in the servicing file to see, you know, if
3 there was a -- if there were other
4 circumstances that may have resulted in a
5 default.

6 I don't want to get too far because
7 I do think these are legal questions. But I
8 think we were looking at all sorts of things.
9 And I think, you know, the way Digital Risk
10 does it now and my experience now, the other
11 firms that I've worked with, they have a
12 relatively standard set of items that they
13 look at.

14 Now, in the Protocol, as I said,
15 you know, maybe they have to look at more
16 things because the claim packet requires it.
17 But at least in Digital Risk's typical
18 review, it seems to be on par with my
19 experience with other loan review firms in
20 how they reviewed and what they -- you know,
21 what they look for, not how.

22 Sorry. Go ahead.

23 Q. No, you're --

24 So, what are -- apart from the --
25 can you tell me the difference between

1 Parekh

2 looking at items in the servicing file and
3 how that's different from how the loans
4 looked like at origination?

5 A. Well, the -- origination is a point
6 frozen in time.

7 Q. And the servicing file would
8 include --

9 A. Is ongoing.

10 Q. Good answer. You did understand.

11 I take it that -- is it fair to say
12 looking for things in the servicing file has
13 become less important or less --

14 A. Well --

15 Q. Less focus of it? What is the
16 difference?

17 A. Not less important overall, but
18 less --

19 I would say it's not the focus of
20 a -- breaches of reps and warranties at
21 origination. There are many servicing
22 reviews and servicing litigation going on.
23 But that wasn't the focus of the review in
24 this matter.

25 Q. And so, what is it --

1 Parekh

2 All right, then let's go back to
3 what they are focusing on now, what Digital
4 Risk is in this matter. Can you elaborate
5 on --

6 Your phrase, I think it was how the
7 loan booked it at origination. What does
8 that mean for --

9 A. Well, my understanding is that the
10 breach -- the breach of reps and warranties
11 is frozen in time as to what that loan -- you
12 know, what information was in that file and
13 what effect did that -- you know, that file
14 when it was sold to the trust.

15 Because the trust purchased a loan
16 and paid a price for a loan that had certain
17 qualities. And what Digital Risk would look
18 for is, you know, were the qualities of that
19 loan as represented actually what happened?
20 That's what I mean.

21 I don't know that I have a lot more
22 to say than that. But that's, I think, a --

23 Q. And so, in looking at the loans, in
24 analyzing the loans, as they look at
25 origination, what does Digital do with the

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items in the servicing file in that analysis?

MR. MUNNO: Objection.

You may answer.

A. I don't know what they do with them. I believe that in terms of the Protocol -- so, if you're talking about the Protocol, I believe they would at least have to verify their existence and completeness. Because the Protocol calls for all the document categories -- for many document categories in the servicing file.

But in terms of estimating the claim through the sample, I don't believe Digital Risk had to consider the servicing file.

BY MR. NETZER:

Q. What did they do -- what consideration did they give the servicing file?

A. I don't -- I don't know the answer to that.

Q. Did -- well, what, if any --
Did they consider it at all?

MR. MUNNO: Asked and answered.

1 Parekh

2 You may answer again.

3 A. I don't know the answer to that.

4 BY MR. NETZER:

5 Q. Well, you've looked at the sample
6 and you've looked at their work, haven't you?

7 A. I've looked at the sample and I've
8 looked at the results of their work.

9 Q. And what's in there about the
10 servicing file?

11 A. They don't look at breaches based
12 on the servicing file. Breaches of
13 origination.

14 Q. Well, what do they look at the
15 servicing file for?

16 MR. MUNNO: Objection.

17 A. I don't know what they would look
18 for -- look -- what they look at the
19 servicing file for.

20 BY MR. NETZER:

21 Q. Well, what have they -- what has
22 Digital told you about their review of the
23 servicing files?

24 MR. MUNNO: Objection; no
25 foundation.

1 Parekh

2 You may answer.

3 A. Nothing.

4 BY MR. NETZER:

5 Q. What has Digital done in connection
6 with its review of the servicing files?

7 MR. MUNNO: Objection; no
8 foundation.

9 You may answer.

10 A. I don't know the answer to that.

11 BY MR. NETZER:

12 Q. Has Digital reviewed the servicing
13 file?

14 A. I don't know the answer to that.

15 In fact, I don't know even of the
16 completeness of the servicing files.

17 You know, one of the difficulties
18 is that, you know, many of these servicers --
19 and there are multiple servicers that were in
20 bankruptcy, and getting files from them, you
21 know, servicing files from them, just may
22 have been problematic. When servicing gets
23 transferred from a bankrupt entity, those
24 servicing files may not have gone over. So,
25 all the difficulties that --

1 Parekh

2 And this also applies as
3 origination files, would also be there with
4 the servicing files. I mean --

5 Q. I understand. But --

6 A. Drawing blood from a stone, so to
7 speak.

8 Q. But notwithstanding that, you're
9 saying that Digital did obtain and review the
10 servicing files where possible?

11 MR. MUNNO: Objection.

12 A. I did not. I don't believe I said
13 that. I don't know what they did with the
14 servicing files.

15 BY MR. NETZER:

16 Q. But you've seen -- have you -- but
17 you've seen their sample and what they did,
18 correct?

19 A. I have seen their sample, meaning I
20 know what loans were drawn into the sample.
21 I have reviewed their process on finding
22 origination breaches. But I don't know what
23 they did with the servicing file.

24 Q. Well, what have you done to
25 determine the impact of servicing breaches on

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Parekh

the sample?

MR. MUNNO: Objection.

A. I haven't done anything --

MR. MUNNO: Relevance.

A. -- on the impact of servicing
breaches on the sample.

BY MR. NETZER:

Q. Well, who --

What have the trustees themselves
done, then?

MR. MUNNO: Objection; relevance.

A. I don't know what you mean by the
"impact of servicing breaches on the sample."
We're not -- as far as I understand, we're
not looking for servicing breaches.

(Continued on next page to include
jurat.)

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MR. NETZER: I think I have no
further questions at this time.

A. But that's -- okay.

MR. MUNNO: This deposition is
concluded.

(Time noted: 3:45 p.m.)

CHARLES A. PAREKH

Subscribed and sworn to before me
this____ day of _____, 2014.

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, TAMI H. TAKAHASHI, a Notary
Public within and for the State of New
York, do hereby certify:

That CHARLES A. PAREKH, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 6th day of December
2014.

TAMI H. TAKAHASHI

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----- INFORMATION REQUESTS -----

DIRECTIONS: (None)

RULINGS: (None)

TO BE FURNISHED: (None)

REQUESTS: 156, 158

MOTIONS: (None)

----- EXHIBITS -----

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Debtors' Exhibit 1, Declaration of Charles A. Parekh, Ph.D., November 14, 2014	7
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Debtors' Exhibit 2, Declaration of William Alread, December 3, 2014	7
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Debtors' Exhibit 3, Declaration of Craig Pino, December 3, 2014	7
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Exhibit C

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: Lehman Brothers Holdings Inc., et al., Debtors.	Case No. 1:08-bk-13555 (SCC)
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Declaration of Craig Pino

December 3, 2014

I. QUALIFICATIONS

I am the President of Recovco Mortgage Management and am responsible for the management of the operations of mortgage underwriting, forensic loan file review, quality control, and appraisal review. I have over twenty-three years of experience in management of mortgage companies including operational and financial management. My experience includes building and managing teams of forensic underwriters in support of forensic mortgage reviews. My resume is attached as Appendix A.

II. ASSIGNMENT

I have been asked by Willkie Farr & Gallagher LLP, counsel for Lehman Brothers Holdings, Inc. ("LBHI" or the "Plan Administrator"), to express my opinions regarding the timing and cost of the protocol proposed by LBHI in its October 15, 2014 cross-motion ("Protocol").

In preparing this declaration I have reviewed information from a number of sources as detailed in Appendix B. In addition, I have applied my knowledge and expertise gained through my twenty-three years in the mortgage industry. In this time, I have overseen 10 forensic mortgage reviews with an aggregate outstanding principal balance of at least \$1 billion; 5 of those 10 reviews have had an aggregate outstanding principal balance of at least \$5 billion. My work in this matter is ongoing, and I reserve the right to supplement this declaration as new information becomes available or if asked by counsel to consider additional issues.

For my work in this matter, I am being compensated at my standard consulting rate of \$300 per hour. My compensation is in no way contingent or based upon the content of my opinions or the outcome of this matter.

III. SUMMARY OF OPINIONS

Steps 0 through 4 of the Protocol (described below) should take approximately one year in the aggregate and cost approximately \$110 million in the aggregate,¹ which is inclusive of \$70 million in costs to the RMBS Trustees and \$40 million in costs to LBHI. These cost projections include the cost of both the RMBS Trustees and LBHI's review and reconciliation of the claims, from the beginning of the claim file review process in Step 0 through completion of the reconciliation process before a group of Claim Facilitators in Step 4. These costs do not include attorneys fees incurred in supervising the aforementioned review, if needed, or any costs that may be incurred in Step 5 of the Protocol, which requires resolution of a small number of remaining loan files following the conclusion of Step 4. These time and cost figures are consistent with the resources available in our industry for loan review and claim reconciliation, and would not overburden, tax or require diversion of unreasonable human capital from our industry. These figures are both reasonable for the size of the project and consistent with the size, timing and costs I have observed in prior forensic mortgage reviews.

¹

I have not projected the time and cost of Step 5, which is the resolution of remaining loan files and may require determination by the Court. However, based on my projections for each of Steps 0 through 4, it is my opinion, as detailed in Part IV(G) below, that a total of 50 to 70 loan files would remain after Step 4.

IV. SUMMARY OF THE PROPOSED PROTOCOL

The Protocol consists of a series of steps that provide for the review and reconciliation of claims related to the mortgage loans underlying the dispute between LBHI and the RMBS Trustees.² Exhibit A to this declaration is a quantitative analysis of each step, which this declaration describes in detail. The numbers projected in Exhibit A have been chosen based on one reasonable set of assumptions with respect to the number of reviewers that both the RMBS Trustees and the Plan Administrator could employ to carry out their respective reviews. Considering the volume of review firms in our industry, and as demonstrated in Exhibit B to this declaration, more reviewers could be employed, with the effect of reducing the time that Steps 1 and 2 take to complete. As Exhibit B reveals, the number of reviewers is directly determinative of how long the Protocol would take to implement.

In summary, the steps comprise the following process:

Step 0: Sets out a rolling time frame pursuant to which the RMBS Trustees gather loan files before turning them over for claim reconciliation to the Plan Administrator.

Step 1: Sets out the number of RMBS Trustees reviewers and the time that these reviewers would take to review and turn over to the Plan Administrator the loan files for which they contend that LBHI has liability.

Step 2: Sets out the number of Plan Administrator reviewers and the time that these reviewers would take to review the loan files with potential claims which the RMBS Trustees turned over in Steps 0 and 1.

Step 3: Estimates the percentage of claim files over which disputes are expected, sets out the number of Claim Negotiators needed to review disputed files and sets out the amount of time that such negotiations between the RMBS Trustees and the Plan Administrator would take.

Step 4: Sets out a claims facilitation process for the claim files that remain in dispute between the RMBS Trustees and the Plan Administrator following the conclusion of Step 3.

Step 5: Will require the resolution of a small number of remaining claims following the conclusion of Step 4.

V. STEP-BY-STEP ANALYSIS OF THE PROTOCOL

A. Step 0:

Step 0 of the Protocol involves the receipt of loan files by the RMBS Trustees from the primary servicers. It presumes that the RMBS Trustees will have approximately 50,000

² I have adopted the same step numbers used by Dr. Charles Parekh (in the RMBS Trustees' November 14, 2014 submission) for each phase of the Protocol.

files to review on day one of the Protocol, and that the RMBS Trustees will receive rolling deliveries of the remaining loan files within 5 months of the Protocol's implementation.³

B. Step 1:

This step, which occurs concurrently with Step 0, projects the number of RMBS Trustee reviewers that could review the remaining loan files at issue and the time it would take these reviewers to complete their review. Assuming the RMBS Trustees used 465 underwriters,⁴ of which 90%, or 419 are working each business day, and that each underwriter is able to complete 3 loan reviews each day worked, it would take about six months for the RMBS Trustees to complete the review of the remaining 157,218 loans.⁵ It is assumed the RMBS Trustees will present claims on 57% of the reviewed loans.⁶

C. Step 2:

This step projects the number of Plan Administrator reviewers that could review the files that the RMBS Trustees submit to the Plan Administrator with alleged claims and the time it would take these reviewers to complete their review. Assuming that the RMBS Trustees will present claims on 57% of the loans reviewed, a total of 92,226 loans will be presented. Assuming the Plan Administrator employs 272 underwriters, of which approximately 90%, or 245 are working each business day,⁷ and that each underwriter is able to complete 3 loan reviews

³ I understand from LBHI that LBHI's affiliate Aurora Loan Services has approximately 50,000 loan files of the 157,218 outstanding loans available for the RMBS Trustees' immediate review. I also understand that Aurora's collection of these 50,000 files began around November 10, 2014. On this time frame, it is reasonable to assume that the other primary servicers could gather and turn over their respective loan files within 5 months from implementation of the Protocol.

⁴ I have projected this number of reviewers (also assumed in Exhibit A, Step 0) based on my experience, the number of reviewers that would be needed for a project of this size and information provided on Digital Risk's website, such as Digital Risk's statement that in 2013 (the latest information available) Digital Risk employed 1,956 persons and has completed over \$1.7 trillion of due diligence quality control reviews (assuming an average loan size of \$200,000). Additionally, Digital Risk could enter into arrangements with other forensic review firms to expand its capacity, if necessary. There are thousands of underwriters who have experience performing forensic reviews and who work for more than a dozen vendors in the mortgage industry that are engaged in the business of performing forensic reviews. These firms include, in addition to Digital Risk and Recovco, Opus Capital Markets, Quattro, Barrent Group, Clayton, Core Logic and JCIII; each of these firms has significant experience performing forensic reviews. The review encompassed by the Protocol will not burden the mortgage industry.

⁵ I assume that because Digital Risk has already reviewed the RMBS Trustees' sample loan population of 4,579 loans, these would not have to be re-reviewed in Step 1 of the Protocol.

⁶ I have conservatively applied the RMBS Trustees' suggested breach rate in making our calculations. For the avoidance of doubt, I have not been asked to opine on the accuracy of the RMBS Trustees' breach rate or to offer an alternative breach rate.

⁷ Because the Plan Administrator has fewer loans to review than the RMBS Trustees (the Plan Administrator would only review 57% of the set of loans, in accordance with the RMBS Trustees' projected breach rate), I have assumed a smaller number of reviewers for the Plan Administrator's review in Step 2, which remains consistent with being able to review the claim files at issue in an efficient, expeditious manner.

for each day worked, it would take about six months for the Plan Administrator to complete the review of the 92,226 presented claims. These reviews would be performed on a rolling basis so that as the RMBS Trustees' underwriters complete and present claims, the Plan Administrator can immediately review such claims to determine if they should be accepted or denied.

With these figures in mind, the approximate amount of time needed for the large majority of loans (97.5%)⁸ to be worked from Step 0 through Step 2 (from receipt and review of the loan files by the RMBS Trustees through receipt and review of the loan files by the Plan Administrator) should be seven months. This time frame allows time for files to be forwarded from servicers to the RMBS Trustees, and then from the RMBS Trustees to the Plan Administrator, all on a rolling basis as work is concurrently performed. Only a small number of loans – those that servicers did not deliver timely to the RMBS Trustees (approximately 2.5% based on our prior projects) – would not have been worked through Steps 0, 1 and 2 after seven months.

Assuming the Plan Administrator agrees with 50% of the claims presented by the RMBS Trustees, the Plan Administrator would deny 46,113 claims.⁹ Of the 46,113 claims denied by the Plan Administrator, an estimated 50% of the denials or 23,057 claims denials would be for incontestable reasons, and consequently not subject to further adjudication.¹⁰ For example, for document defect claims (where loan file documents such as a HUD 1 Settlement Statement are allegedly missing or where an appraisal is allegedly missing), it is my view based on prior experience, that the Plan Administrator will be able to locate many of the documents asserted missing. Location of such missing documents by the Plan Administrator would resolve such missing document claims in an incontestable manner, thereby making further adjudication unnecessary.

While locating allegedly missing documents should be a significant source of incontestable Plan Administrator denials, there are other examples of incontestable denials. For instance, I expect that some claims of allegedly undisclosed liabilities will be found by the Plan Administrator as a result of name confusion. An example of this would be where a mortgage asserted by the RMBS Trustees to have an undisclosed debt of a borrower is discovered to instead be the longstanding loan on the home of the borrower's father, which would not give rise to a claim on the loan.

It is an improper inflating of the effort needed to resolve the RMBS Trustees' claims to not consider that a large number of claims will be denied by the Plan Administrator for an incontestable reason, and consequently will no longer be at controversy. Based on prior experience and review of Attachment V to Dr. Charles Parekh's August 21, 2014 declaration, it

⁸ Based on my experience, all loan files will not be provided to the RMBS Trustees for their review by the primary servicers; as a result, I project that in this case, this production turnover failure will represent approximately 2.5% of the outstanding loan population.

⁹ I have conservatively applied the RMBS Trustees' 50% dispute rate in this calculation.

¹⁰ A 50% denial rate for incontestable reasons is both consistent with my prior experience and reasonable based upon my review of the types of breaches presented in Digital Risk's review of the 2,600 loan sample.

is estimated that 50% of the claims denied by the Plan Administrator will be denied for an incontestable reason (such as required loan documentation asserted to be missing, in actuality being located). These claims, for the reasons stated above, will not require further adjudication. Given 50% of claims denied by the Plan Administrator will be for incontestable reasons,¹¹ the number of claims needing further adjudication will be 23,057 (not the 46,112 estimated by Dr. Parekh).

D. Step 3:

This step of the Protocol involves negotiations between the RMBS Trustees and the Plan Administrator with regard to disputed claim files. In light of the projection that an estimated 50% of the claims denied by the Plan Administrator will be denied for incontestable reasons, negotiations through a Claim Negotiator would apply to 23,056 loan files. I believe that negotiation on the 23,05 loans will not, in a high number of cases, require negotiations on the loan-level. The reason for this is that the RMBS Trustees' claims on many these loans will be decided based on a standard handling method.

For example, where the RMBS Trustees are making claims based on insufficient title insurance, these claims are the same in every instance where there is not also a title defect. As a result, because the claims are very similar or even the same across every loan, a recovery decision can be made for the category as a whole and then applied consistently to all claims that contain insufficient title insurance. While there may be some exceptions and outliers, I believe that consistent rules and applications can be developed for the review.

This means that resolution of these claims can occur without determination by a Claims Facilitator or the Court. Assuming that the RMBS Trustees employ 8 Claim Negotiators, each negotiating 25 loans per day, it would take an estimated five to six months to complete negotiations of denied claims. It is assumed, based on prior experience, that negotiations will resolve 25% of the unresolved claims, requiring further adjudication by a Claim Facilitator on 17,292 loans.

E. Step 4:

Step 4 of the Protocol involves the submission of remaining unresolved claims between the RMBS Trustees and the Plan Administrator to a Claim Facilitator. With respect to adjudication of the remaining 17,292 disputed loans, this set, too, will not, in a high number of cases, require dedicated hearings or "mini trials." The reason is that the RMBS Trustees' claims regarding many claim decisions in this step will also be decided, as in Step 3 above, based on a standard handling method.

For example, many of the RMBS Trustees' claims repeat from loan to loan. Based on my experience with claim reconciliation between adverse parties, it is estimated that 60% of the claims that either (i) are not accepted by the Plan Administrator, or (ii) are denied by

¹¹ Based on prior experience, an estimated 25% of claims are factually wrong or cured through procurement of necessary documentation.

the Plan Administrator for an incontestable reason will be controlled by the Claims Facilitator's previous determinations.

Altogether, it is estimated that the 17,292 disputed loans in Step 4 will proceed as follows: (i) 40% of the loans, or 6,917 will be adjudicated by the Claims Facilitator, while (ii) the outcome of the remaining 60% or 10,375 loans will be resolved through the standard handling method. Assuming the Claims Facilitator has ten facilitators assigned to the case, and assuming each facilitator can adjudicate four loans per day, the Claims Facilitator will resolve the 6,917 loans in an approximate range of eight to nine months.¹²

Additionally, the Claims Facilitator would assign 10 assistant facilitators to ensure that the standard handling method was correctly applied to all loans where the RMBS Trustees made the same claim on multiple loans. Assuming these assistant facilitators could each resolve 15 loans per day, it is estimated that the 10 assistant facilitators will resolve the 10,375 loans in an approximate range of three to four months, which would run concurrently with the Claims Facilitator's eight to ninth month review period stated above.

F. Timing Summary for Steps 0 – 4:

In total, Steps 0-2 will take an aggregate of approximately seven months, and Steps 3-4 will take an aggregate of approximately nine to ten months. Accounting for the overlap of these steps, Steps 0-4 will take approximately one year to complete.¹³

G. Step 5:

Step 5 requires resolution of the remaining disputed claim files. The great majority of loan claims asserted by the RMBS Trustees will be determined by:

- (i) the Plan Administrator accepting the RMBS Trustees' position;
- (ii) the Plan Administrator finding an incontestable reason why the Trustees' claims should be denied;
- (iii) the Claim Facilitator consistently applying the law of the case; or
- (iv) the Claim Facilitator using sufficient resources to timely resolve the balance of loans requiring adjudication.

As a result, only a small number of loans – approximately 50 to 70 – will not be resolved by the conclusion of the Protocol and proceed to Step 5.

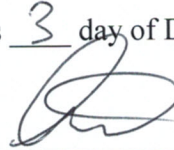
¹² As discussed above, these projections of the number of Claim Facilitators working and the number of days worked (which are the same as projected in Steps 1 and 2) are based on my experience and my related projections of what would be a reasonable number of facilitators for a project of this size.

¹³ For this quantitative analysis, see the section entitled "Total Labor Years to Satisfy Protocol Steps 0-4" of Exhibit A.

VI. CONCLUSION

Steps 0 through 4 of the Protocol should take approximately 1 year in the aggregate and cost approximately \$110 million. These figures are consistent with the resources available in our industry, on a step by step basis. In my experience, these figures are both reasonable for the size of the project and consistent with the size, timing and costs of prior forensic mortgage reviews that I have overseen.

Executed this 3 day of December, 2014.



Craig Pino

Appendix A

Craig S. Pino
2313 Ranch House Drive
Southlake, TX 76092
(631) 697-2977

Mortgage Finance

Capital Markets

Treasury Operations

Highly skilled Executive with over 23 years of experience in the mortgage finance industry. **Significant experience organizing and managing forensic underwriting review projects, assisting clients with RMBS litigation including assisting in developing scope and assembling teams, and managing loan review process.** Results –oriented leader with proven success in fast-paced fluid environments and a **track record of producing direct positive impact on bottom-line profitability.**

Professional Experience

Recovco Mortgage Management, LLC
President

2010-Present

Key Achievements

- Built operational platform including three scalable operations centers
- Manage large-scale underwriting and loan file review engagements for major clients
- Assisting clients in developing loan review strategies around repurchase and litigation
- Develop and execute business strategy for underwriting and quality control reviews
- Use existing and new business contacts to enhance company performance and expand operations

American Home Mortgage Servicing, Inc.
Executive Vice President and Treasurer

2008 – 2010

Key Achievements:

- Established Treasury/Finance department staffing, systems, policies, and reporting
- Developed liquidity and capital allocation budgets
- Managed Cashiering and Investor Accounting functions
- Increased Banking/Investment Banking relationships to the company
- Increasing financing facilities by over \$2 billion dollars

- Lead company's efforts to lobby federal government to include servicing advances in TALF program, leading to significantly more liquidity at lower cost
- Lowered bank fees and increased float earnings to account for over \$2 million pre-tax earnings per annum

American Home Mortgage Investment Corp.
Executive Vice President and Treasurer

2004 – 2008

Served as Executive Vice President and Treasurer of \$20 billion NYSE-traded mortgage REIT with \$60+ billion of mortgage originations and \$50 billion of mortgage servicing rights. Responsible for financing \$12 billion mortgage loan warehouse and \$600 million mortgage servicing rights investment, investing \$1.2 billion of custodial deposits, Accessed sub-debt, trust preferred, residual, and working capital financing markets. Managed banking and investment banking relationships, and oversaw a staff of approximately 45 employees.

Key Achievements:

- Increasing financing facilities by over \$12 billion dollars in three years
- Lowered borrowing spreads by over 60 basis points through innovative funding products
- Established ALCO committee and liquidity committee
- Worked with Bank Regulators on acquisition of bank
- Reducing bank fees by over 45% per year
- Improving Treasury funding process to allow for 3 times more funding cycles per day

Countrywide Home Loans, Inc
Executive Vice President and Assistant Treasurer

1996 – 2004

Responsible for Treasury Funding, Cash Management, and Projects for the largest independent mortgage company and a recognized industry leader in the mortgage finance business with over \$100 billion in assets. Managed the funding of \$15 billion of secured and unsecured commercial paper, \$10+ billion of US and Euro Medium Term Notes, \$5 billion of conduit financing, \$5+ billion of short-term investments, bank relationship, daily cash management, and special projects.

Key Achievements:

- Developed liquidity and capital planning group
- Structured over \$10 billion of secured financing facilities
- Responsible for implementation of FAS 133 for liability hedging
- Executed roughly \$10 billion of medium term notes and related derivatives hedges
- Developed FAS133 tracking system for liability hedges

North American Mortgage Company
Treasury Manager

1995 – 1996

Arbor National Mortgage 1994 – 1995
Treasury Director

Margaretten and Company, Inc 1991 – 1994
Cash Manager

Home Life Insurance Company 1987 – 1991
Senior Cash Management Analyst

Education

Rutgers University 1984 – 1987
Major: Economics

California State at Channel Islands 2001- 2003
Major: Accounting/Business Administration

Military Training

US Army Infantry Officer Basic Course 1990

Appendix B

Items Reviewed in Preparation of Report

1. RMBS Trustees' Motion to (I) Increase the reserve to \$12.143 billion and (II) Estimate and allow their claims for covered loans at \$12.143 billion pursuant to section 502(c) of the Bankruptcy Code (including the expert declarations and exhibits)
2. Lehman Brothers Holdings Inc.'s (A) Objection to RMBS Trustees' Motion to (I) Increase the reserve to \$12.143 billion and (II) Estimate and allow their claims for covered loans at \$12.143 billion pursuant to section 502(c) of the Bankruptcy Code, and (B) Cross-motion to establish a protocol to resolve claims filed by RMBS Trustees (including Exhibit C – the proposed Protocol).
3. The RMBS Trustees' (1) Reply In Support Of Their Motion To Estimate The RMBS Claims Using Statistical Sampling, And (2) Opposition To Lehman's Cross-Motion For A Full Loan-By-Loan Review (including the expert report and exhibits)
4. Digital Risk's website.

Exhibit A

Loan Files Within 255 Trusts at Issue

Number of Covered Loans	416,091
Number of Covered Loans with Loss/Expected Loss	161,797

Trustees Review to Date and Remaining Loans for Review

Loans Requested-to-Date	5,000
Loans Received and Reviewed	4,579
Number of Loans for Review	157,218

Step 0: Receive Loans from Servicers

Years to Receive Loans from Servicer	0.5
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50,000 loans available on Day one of Review, Balance received on Rolling Basis Between 60 and 180 days

Step 1: RMBS Trustees Review of Remaining Loans

Years to Review Remaining Loans	0.50
Cost to Review Remaining Loans	\$ 62,887,200

419 Reviewers
3 Loans per Day (Each)
251 Days per Year
400 Cost per Loan (Based on Range Estimate of \$375-\$425 per Loan)

Step 2: Plan Administrator Review of Repurchase Requests

Number of Requests from Initial Sample	2,612
Number of Additional Requests Submitted	89,614
Total Number of Loans Requested for Repurchase	92,226
Years for Plan Administrator to Review Requests	0.50
Cost to Review Requests	\$ 32,279,100
Plan Administrator Agrees to Repurchase	46,113
Plan Administrator Declines to Repurchase	46,113
Claims Denied for Incontestable Reasons	23,057
Claims Requiring Negotiation	23,057

Reflectes 57% of Parekh Assumed Breach Rate

Reviewers (Because Lehman's Review Populations Smaller than 245 Trustees, Fewer number of Reviewers Required to Complete Review in Timeframe Similar to Trustee
3 Loans per Day (Each)
251 Days per Year
350 Cost per Loan (Based on Range Estimate of \$325 - \$375 for Industry Pricing of Rebuttal Review)

50% Agreed to Repurchase
50% Disagreed to Repurchase
50% Claims Denied for Incontestable Reasons
50% Claims Requiring Negotiation

Step 3: Parties Negotiate Declined Repurchase Requests

Years to Negotiate Declined Repurchase Requests	0.46
Negotiation Results in Resolution	5,764
Cost to Negotiate Repurchase Requests	\$ 4,426,848

8 Negotiators (2 per Trustee)
25 Loans Negotiated per Day
251 Days per Year
25% Percentage Resolved
600 Hourly Rate of Negotiation (We have Assumed the Estimated Rate used by Parekh)

Step 4: Claims Facilitator Reviews Unresolved Repurchase Claims

Loans Sent to Claims Facilitators	17,292
Loans Reviewed by Claims Facilitators	6,917
Loans Reviewed by Assistants Claims Facilitators	10,375
Years for Claims Facilitators to Review Requests	0.69
Years for Assistant Claims Facilitators to Review Requests	0.28
Claims Resolved by Claims Facilitators	17,222
Cost for Claims Facilitator to Review Requestss	\$ 6,916,950
Cost for Assistant Claims Facilitator to Review Requests	\$ 2,766,780

75% Percentage Unresolved after Negotiations
40% Percentage of Unresolved Loans Requiring Claims Facilitators
60% Percentage of Unresolved Loans Requiring Assistant Claims Facilitators
10 Claims Facilitators
4 Loans per Day
251 Days per Year
500 Hourly rate of Facilitators (We have Assumed the Estimated Rate used by Parekh for Facilitators)
10 Assistant Claims Facilitators
15 Loans per Day
251 Days per Year
500 Hourly rate of Assistant Facilitators (We have Assumed the Estimated Rate used by Parekh for Facilitators)
99.60% Claims Resolved by Claims Facilitators

Step 5: Court Reviews for Final Resolution

Loans Sent to Court for Final Resolution	70
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Total Labor Years Needed to Satisfy Protocol Steps 0 - 4

Step	Process	Duration	Start (Years)	End (Years)
0	Receive Loan Files from Servicers	0.50	0	0.50
1	Review Remaining Loans	0.50	0	0.50
2	Plan Administrator Reviews Repurchase	0.50	0.08	0.58
3	Trustee Negotiate Declined Request	0.46	0.17	0.75
4	Assitant Claims Facilitator/Claims Failicit	0.69	0.25	1.00

Due to concurrent review, Step 2 would start 30 days after Step 1
Due to concurrent review, Step 3 would start 30 days after Step 2
Due to concurrent review, Step 4 would start 30 days after Step 3

Cost Needed to Satisfy Protocol Steps 0 - 4

Step	Process	Cost	Costs Attributable to the	
			Cost Attributable to the Trustees	Estate
1	Review Remaining Loans	\$ 62,887,200	62,887,200	
2	Plan Administrator Reviews Repurchase	\$ 32,279,100		\$ 32,279,100
3	Trustee Negotiate Declined Request	\$ 4,426,848	2,213,424	\$ 2,213,424
4 a)	Claims Facilitator Reviews Unresolved Cl	\$ 6,916,950	3,458,475	\$ 3,458,475
4 b)	Assistant Claims Facilitator Reviews Unrre	\$ 2,766,780	1,383,390	\$ 1,383,390
Total Estimated Cost		\$ 109,276,878	69,942,480	\$ 39,334,389

100% Cost Attributable to the Trustees
100% Cost Attributable to the Estate
Cost Attributable to the Trustees and 50% the Estate
Cost Attributable to the Trustees and 50% the Estate
Cost Attributable to the Trustees and 50% the Estate
Cost Attributable to the Trustees and 50% the Estate

Exhibit B

Number and Composition of Teams Needed to Perform Forensic Reviews on 2000, 4000, 6000, 8000, 10,000, 12,000 and 14,000 Loan Files Per Month

	<u>Recovco's Existing Lehman Team</u>	<u>Reassignment of a Second Recovco Team to Lehman Project</u>	<u>Reassignment of a Third Recovco Team to Lehman Project</u>	<u>Development of a Fourth Recovco Team for Lehman Project</u>	<u>Access to a Fifth Team Through Recovco's Capacity Sharing Agreements</u>	<u>Access to a Sixth Team Through Recovco's Capacity Sharing Agreements</u>	<u>Access to a Seventh Team Through Recovco's Capacity Sharing Agreements</u>
Capacity in Loans per Month	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Managers	4	4	4	4	4	4	4
Underwriters	33	33	33	33	33	33	33
Senior Reviewers	11	11	11	11	11	11	11
Forensic Researchers (data handling)	6	6	6	6	6	6	6
Additional Support Staff	3	3	3	3	3	3	3
Total Personnel for 2000 Loans / Month	57	57	57	57	57	57	57

Number of Months Needed to Perform Forensic Reviews on 150,000 Loan Files Showing Number of Teams and Required Personnel by Type of Staff Member

<u>Forensic File Reviews Completed Each Month</u>	<u>Number of Months Needed to Review 150,000 Files</u>	<u>Number of Years Needed to Review 150,000 Files</u>	<u>Number of Teams Working on Files</u>	<u>Total Number of Personnel Working on Forensic Reviews</u>	<u>Number of Managers</u>	<u>Number of Underwriters</u>	<u>Number of Senior Reviewers</u>	<u>Number of Forensic Researchers (Data Handling)</u>	<u>Number of Additional Support Staff</u>
2,000	75.0	6.3	1	57	4	33	11	6	3
4,000	37.5	3.1	2	114	8	66	22	12	6
6,000	25.0	2.1	3	171	12	99	33	18	9
8,000	18.8	1.6	4	228	16	132	44	24	12
10,000	15.0	1.3	5	285	20	165	55	30	15
12,000	12.5	1.0	6	342	24	198	66	36	18
14,000	10.7	0.9	7	399	28	231	77	42	21

Exhibit D

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: Lehman Brothers Holdings Inc., et al., Debtors.	Case No. 1:08-bk-13555 (SCC)
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Declaration of William Alread

December 3, 2014

I. QUALIFICATIONS

I have worked in the mortgage industry for 30 years, and have either performed or directly supervised the due diligence and/or underwriting of residential mortgage loans throughout that time. I spent my early career at First Mortgage Strategies Group, Inc., where I focused on mortgage loan due diligence and transaction management in connection with the Resolution Trust Corporation (“RTC”) liquidation. I then spent seven years at First Tennessee Capital Assets Corp., where I was the senior executive in charge of contract finance and underwriting on various fixed-income investments, including residential mortgage loans. Before founding Steel Mountain Loan Trading, LLC (“SMLT”)¹, my current employer, I spent eight years as a Senior Vice President at a private loan acquisition firm and a large national bank in Denver, Colorado. At both companies, I was responsible for overseeing the purchases of residential mortgage loans, as well as due diligence related to such loans.

I am currently the Chief Operations Officer and head of the Contract Finance Department for SMLT, a mortgage trading, risk management, and servicing oversight company established in 2014 that purchases mortgage loans, develops and implements exit strategies for purchased assets, and provides a diverse array of services to banks, credit unions, and various companies in the mortgage business. My primary responsibilities at SMLT, and throughout my career, have included the preparation and negotiation of all contracts, agreements, and closing documents for the purchase and sale of mortgage loans, and the settlement of contract breaches as well as repurchases. I also supervise all of the firm’s due diligence and underwriting of mortgage loans. Because my firm’s business primarily involves the purchase and sale of mortgage loans, a core

¹ I am co-owner and President of Steel Mountain Capital Management, LLC which was formed in 2005. I am also Chief Operations Officer of Steel Mountain Loan Trading, LLC which was formed in 2014. I will refer collectively to these companies as SMLT in this report.

part of that business is due diligence to assess the risk factors associated with those loans, including, among others, those related to borrower credit, regulatory compliance, and property value. Since 2005, I have been involved in over 340 separate mortgage loan transactions with a combined outstanding balance of over \$1 billion. A copy of my complete resume, which sets forth my qualifications, work experience, and education, is attached hereto as Exhibit A. Exhibit A also lists the cases in which I have served as an expert witness.

II. RETENTION IN THIS CASE AND ASSIGNMENT

SMLT and I have been retained to provide professional services with respect to claims made by certain RMBS Trustees against Lehman Brothers Holdings Inc. (“Lehman”). Specifically, I was asked to review the claim resolution protocol advanced by Lehman (“Protocol”) to determine whether it conforms with industry standards and practices. It is my opinion that the Protocol provides a reasonable framework for the implementation of the cure or repurchase and Purchase Price² calculation provisions of the Governing Agreements,³ and as a result the Protocol is consistent with industry standards and practices. I was also asked to describe the repurchase claims resolution process typically applied in the industry. It is my opinion that the repurchase claims resolution process—from an industry custom and practice perspective—can only occur on a loan-by-loan basis in order to accurately capture the scope of liability attributable to a sponsor.

My opinions are based on my 30 years of industry experience, including my involvement with due diligence and the assessment of various risk factors associated with the purchase and sale of loans, and my first-hand knowledge of agreements and the repurchase claims process. I

² Although the Purchase Price calculation provision varies among the Governing Agreements (and the variance itself underscores the importance of a loan-by-loan review), the fundamental elements of those provisions require that the calculation be performed at the loan level.

³ The Governing Agreements include the underlying Trust Agreements and Mortgage Loan Sale and Assignment Agreements.

am being paid a fee of \$800 per hour for my work in connection with the preparation of this declaration, my continued consulting analysis, and any deposition or trial testimony I may provide. Further, SMLT is being reimbursed for all of its actual, necessary, out-of-pocket expenses incurred in connection with my work. My fee is not contingent on the outcome of this case or on the substance of my opinions. Exhibit B lists the materials I have reviewed in forming the opinions expressed herein, which are my own.

I reserve the right to amend my opinions, as stated herein, based on my receipt or examination of any new or additional information.

III. SUMMARY OF OPINIONS

Opinion 1: The Protocol is a sound, efficient, workable, and cost-effective means of timely resolving each claim at the loan level through a clear and consistent process that follows mortgage industry standards and practices. The mortgage industry standard and practice is that cure and repurchase claims are resolved on a loan-by-loan basis. Conversely, it is not industry standard or practice to use sampling in connection with cure or repurchase claims because sampling does not provide the loan-level information needed to effectuate the cure or repurchase remedy.

Opinion 2: In my business experience, not applying a loan-level inquiry for claim reconciliation would ignore the allocation of responsibilities among the securitization parties and run contrary to mortgage industry standards and practices, as reflected in the Governing Agreements, requiring notice to Lehman of specific alleged breaches, loan-level evidence to substantiate those claims, and loan-level remedies.

IV. THE PROPOSED RMBS PROTOCOL

A. Overview of the Protocol Process

Lehman's proposed Protocol provides a reasonable framework for a claim resolution process that conforms with mortgage industry standards and practices, as reflected in the Governing Agreements, and preserves the parties' relative rights and responsibilities. Without a loan-level inquiry process, Lehman would be unable to exercise the following rights:

- (1) to rebut claims when inaccurate;
- (2) to cure claims when possible;
- (3) to determine the properly calculated Purchase Price on RMBS claims that are valid; and
- (4) to obtain the information necessary to effectuate downstream indemnification rights against Lehman counterparties.

In my professional opinion, and given the number and principal amount of the loans at issue, the Protocol is an efficient and cost-effective means of complying with industry standards and practices and meeting the requirements of the Governing Agreements through a clear and consistent process that will timely facilitate the resolution of each claim at the loan level.

In addition, the Protocol provides a potential economic benefit to both parties. The RMBS Trustees will come away with verified loan-level data and potentially many cured loans, which would be to the benefit of the certificateholders and may aid their defense of claims I have been told they are facing from certificateholders. For its part, and as discussed above, Lehman will allow claims based on actual liability (not estimates and projections), and retain the ability to process downstream claims on behalf of the Estate. The Protocol also provides for streamlined and cost-effective resolution of disputed claims without resorting to full-blown litigation, and thus provides a further benefit to both parties.

The individual steps of the Protocol are, in my experience, consistent with standard industry practices, and both the RMBS Trustees and Lehman should be able to complete them in a timely manner. I have seen similar approaches implemented in other aspects of the mortgage industry. For example, Fannie Mae and Freddie Mac, although dealing with a large volume of loans, maintain a loan-by-loan repurchase process that includes an appeals process and alternative remedies. Moreover, the mortgage insurance companies approve or deny claims on a loan-by-loan basis by requesting and reviewing individual loan-level documents, and then participating in a back-and-forth dialogue with the owner and/or servicer of the loan.

B. Overview of the Protocol's Scalability

At my direction, Recovco (a large mortgage loan due diligence and quality control company that provides solutions, valuations, quality control, due diligence, underwriting, fulfillment, and auditing services) has prepared a chart (below) that provides information concerning staffing and timing for underwriting processes.⁴ The chart was prepared to assist me in drawing conclusions about the time required to complete Lehman's proposed Protocol.

The chart contains two sections. The first section shows the staffing required for a forensic review team to complete 2,000 forensic reviews per month. An individual underwriter can perform approximately three forensic reviews per day, while a senior reviewer (who reviews the accuracy and logic of the work and positions taken by the underwriters) can review approximately nine forensic evaluations per day. In addition to the 57 staff members necessary to complete 2,000 files per month, a forensic review team needs approximately four managers, six researchers and data handlers, and three support staff.

⁴ This chart is provided merely to represent scalability and is not meant to be an example as to what should be done in this case.

The first section of the chart also shows how capacity can be increased by adding additional teams to a review project. This scalability is achievable by the large re-underwriting firms in the market, including by combining with peer firms to achieve maximum review capacity. Specifically, the chart shows that an underwriting firm like Recovco (which is not unique in the mortgage industry in terms of size or capacity) can assign up to three additional teams to the Lehman project (bringing the total number of teams working on the Lehman project to four). With four assigned teams, Recovco can produce approximately 8,000 forensic reviews per month for the Lehman project. Finally, the chart shows that, through resource sharing agreements with other forensic research firms, Recovco can engage seven teams on the Lehman project, which would produce approximately 14,000 forensic reviews per month. Per Recovco, additional teams could be assigned to further increase capacity and shorten the timeframe required to complete the Protocol; such projections are not unique to Recovco, but rather should be common to all large re-underwriting firms in the market.

Number and Composition of Teams Needed to Perform Forensic Reviews on 2000, 4000, 6000, 8000, 10,000, 12,000 and 14,000 Loan Files Per Month									
	Recovco Exiting Lehman Team	Reassignment of Second Recovco Team to Lehman Project	Reassignment of Third Recovco Team to Lehman Project	Development of Fourth Recovco Team for Lehman Project	Access to a Fifth Team Through Recovco's Capacity Sharing Agreements	Access to a Sixth Team Through Recovco's Capacity Sharing Agreements	Access to a Seventh Team Through Recovco's Capacity Sharing Agreements		
Capacity in Loans per Month	2,000	2,000	2,000	2,000	2,000	2,000	2,000		
Managers	4	4	4	4	4	4	4		
Underwriters	33	33	33	33	33	33	33		
Senior Reviewers	11	11	11	11	11	11	11		
Forensic Researchers (data)	6	6	6	6	6	6	6		
Additional Support Staff	3	3	3	3	3	3	3		
Personnel for 2000 Loans/Month	57	57	57	57	57	57	57		
Number of Months Needed to Perform Forensic Reviews on 150,000 Loan Files Showing Number of Teams and Required Personnel by Type of Staff Member									
Forensic File Reviews Completed Each Month	# of Months Needed to Review 150,000 Files	# of Years Needed to Review 150,000 Files	Number of Teams Working on Files	Total Number of Personnel Working on Forensic Reviews	Number of Managers	Number of Underwriters	Number of Senior Reviewers	Number of Forensic Researchers (Data Handling)	Number of Additional Support Staff
2,000	75.0	6.3	1	57	4	33	11	6	3
4,000	37.5	3.1	2	114	8	66	22	12	6
6,000	25.0	2.1	3	171	12	99	33	18	9
8,000	18.8	1.6	4	228	16	132	44	24	12
10,000	15.0	1.3	5	285	20	165	55	30	15
12,000	12.5	1.0	6	342	24	198	66	36	18
14,000	10.7	0.9	7	399	28	231	77	42	21

C. Timing and Cost of the Protocol

Based on further analysis provided by Recovco, which aligns with my mortgage industry experience, Step 0 through Step 4 of the Protocol proposed by Lehman should take approximately one year to complete and cost approximately \$110 million.⁵ While this cost may appear large, it is actually a relatively small cost figure when (i) divided by the 255 trusts containing the loans giving rise to the claims in this matter; and/or (ii) compared to the total unpaid principal balance of the loans.

This time and cost analysis reflects the fact that for a large-scale project such as this, our industry is more than able to provide the necessary number of reviewers, negotiators and facilitators to complete the Protocol in a timely and efficient manner. Indeed, in the mortgage industry there are numerous vendors who provide due diligence and quality control services,

⁵ Exhibit A to Declaration of Craig Pino.

such as NewOak Capital, FTI Consulting and Fortace, that could be hired for a project of this nature and scale. Additionally, the time and cost analysis recognizes that efficiencies, such as those discussed below, would develop as the Protocol proceeds, and that such efficiencies would accelerate the review process.

D. *General Observations Concerning the Protocol and Dr. Parekh's Analysis of the Protocol*

i. *Dr. Parekh Disregards the Industry's Capacity for Large, Efficient Review Teams.*

Based on my mortgage industry experience, and Recovco's analysis, my opinion is that the 27-year timeframe proposed by the RMBS Trustees is grossly overstated and misleading. The number of reviewers, negotiators, and facilitators is scalable, and there is no reason to adopt Dr. Parekh's inadequate staffing assumptions. For example, in his Declaration dated November 14, 2014, Dr. Parekh suggests that 40 reviewers be used in Step 1 for purposes of reviewing three loans per day. In my opinion, this proposal reveals a lack of practical experience with large-scale mortgage loan review projects. As mentioned previously, our industry has the capacity to devote far more robust resources to this project than Dr. Parekh assumes. Specifically, as the Recovco analysis illustrates, a loan-level Protocol could be completed much more quickly by utilizing the efforts of a far greater number of industry professionals.⁶

ii. *Dr. Parekh Ignores Efficiencies Gained from Lessons Learned as the Protocol Proceeds.*

Further, as both sides move forward with the objection and negotiation processes in the Protocol, they will inevitably be able to apply lessons learned from other similar loans and streamline the process. Practically speaking, this means that as the parties and the review teams

⁶ *Id.*

start to identify emerging patterns in the loan review process, the review will become faster and more efficient.

For example, in Dr. Parekh's November 14, 2014 Declaration, he suggests 34,585 to 45,738 of the loans will require review by a Claim Facilitator. Even if those numbers are accurate at the beginning of the project, based on information provided by Recovco,⁷ the percentage of loans requiring review by a Claim Facilitator will likely decrease over time, which in turn will decrease the required timeframe to complete the Protocol. As Lehman has the opportunity to identify and relay the relevant facts for a loan, over time patterns will likely develop for similar loans and factual disputes will oftentimes be resolved concurrently for those similar loans.

As discussed in my footnote nine below, there are various ways the number of loans requiring a Claim Facilitator review can be decreased. These areas include, but are not limited to, the handling of missing documentation breaches where the document exists, undisclosed debt breaches where the additional debts are not those of the subject borrower, and undisclosed debts where the borrower still qualified for the subject loan per guidelines. These are three examples of types of breaches that can be resolved to both parties' satisfaction without involving a Claim Facilitator.

Dr. Parekh also suggests that 8,646 to 11,434 loans will require the Court's review. By utilizing the common sense approaches stated above, I believe the number of loans requiring judicial review will be much lower. As the parties go through the Protocol, disputes will center around categories of loans instead of on specific loans. For example, my opinion is that a compliance issue (such as where a loan file is missing either a HUD-1 or a Final Truth-In-Lending statement) can be categorically addressed. This means that if there are 1,000 loans for

⁷ *Id.* at Step 4.

which this type of alleged compliance issue is present, resolving the overall dispute will provide a resolution for the group of 1,000 loans. Accounting for these types of efficiencies, it should be the case that very few loans or dispute categories, if any, become the subject of the Court's determination. Dr. Parekh's findings, however, are based on the assumption that each separate alleged breach will fully proceed to the Court review phase. In making this assumption, he does not account for efficiencies in claim resolution that are very much a part of a loan-by-loan review, leading to what I view as an error in his analysis.

iii. *Dr. Parekh Disregards the Fact that Lehman Must Only Respond to Specific Alleged Breaches.*

Since the Trustees will identify specific breaches, Lehman must only respond to those specific breaches, and is not required to do a full re-underwriting review of every aspect of every loan. For example, if there are no alleged breaches related to the appraisal on a given loan, the reviewer for Lehman would not need to spend any time analyzing that particular appraisal. This focused type of review takes less time than a full file review, and is yet another reason why the Protocol steps can proceed expeditiously. Dr. Parekh fails to recognize this practical aspect of the Protocol.

V. THE MORTGAGE INDUSTRY RESOLVES CURE OR REPURCHASE CLAIMS ON A LOAN-BY-LOAN BASIS

A. *Loan-by-Loan Claim Resolution*

As is the case in every mortgage loan sale agreement I have encountered, the entire claims process is predicated on loan-by-loan discovery and notice. For example, one Mortgage Loan Sale and Assignment Agreement⁸ reads in part, "Upon discovery by either the Seller or the Depositor of a breach of any of the foregoing representations and warranties...that adversely and

⁸ MLSAA for LXS 2007-6 at page 15, Section 1.04 (d).

materially affects the value *of the related Mortgage Loan...*” (emphasis added). In my experience, this contractual language reflects an industry-wide practice that the cure or repurchase remedy is to be applied on a loan-by-loan basis, as it refers to “the related Mortgage Loan,” not the entire pool.

Generally, upon the presentation of an alleged breach of a representation and warranty, a number of things may result. First, the seller may disagree with and rebut the claim. A written rebuttal is typically made within 30-90 days, and in my experience, is always done at the loan level. Many rebuttals successfully convince the claimant its claim was made in error and the matter is then dropped. For example, a seller may rebut a purchaser’s weak claim using information the purchaser failed to consider in making the claim.⁹

For undisputed breaches, there are three specified remedies in these Governing Agreements:¹⁰

- (1) The seller can cure the breach, which would be done by correcting documentation errors, locating missing documents, etc.
- (2) The seller can repurchase the loan in accordance with the Purchase Price calculations laid out in the Governing Agreements.
- (3) The seller may substitute the affected loan with a different loan, but only in the first two years after securitization.

⁹ For example, it appears that over 2,000 of the RMBS Trustees’ breaches pertain to missing documentation. Based on my experience, it is likely that a large percentage of those breaches will be cured so long as the documents exist and are available for review. Also, there are many undisclosed debt breaches and oftentimes the additional debts are not those of the subject borrower, or, even if they were, the borrower would have qualified per guidelines with the debts included. This means that such alleged breaches are not actually breaches under the Governing Agreements.

¹⁰ These remedies are set out, for example, in the Trust Agreement and Mortgage Loan Sale and Assignment Agreement for SASCO 2005-1 and LXS 2007-6.

Based on my experience, the inquiry process takes place on a loan-by-loan basis, precisely because of the above list of remedies.

Practicalities also support the fact that the cure or repurchase remedy is applied on a loan-by-loan basis. The obligation to cure must necessarily be performed on a given loan, not a group of loans. Further, in the event of repurchase, the required remedy is the defined term “Purchase Price,” which is an equation usually consisting of loan-level inputs including unpaid principal balance, accrued interest, and certain servicing advances.¹¹ Because this equation requires loan-level inputs, it can only be applied at the loan level, and not in an aggregate or through estimation (as the RMBS Trustees propose).

To be clear, I do believe that sampling can be used in secondary market transactions. Parties to mortgage loan transactions are generally free to decide both how many loans to review and the degree to which such loans should be reviewed in connection with their trades. For example, SMLT performs 100% due diligence because we think it better protects our interests in the loans, but I am aware that some mortgage loan transactions may include review of fewer than 100% of the loans. My opinion is not that sampling is *never* useful or appropriate¹², but that it is not industry standard or practice in connection with cure or repurchase claims because it does not provide the loan-level information needed to accurately effectuate the cure or repurchase remedy.

B. *Loan-Level Detail Is Required to Substantiate a Claim*

In my opinion there are a clear set of steps that should be undertaken in the event of the discovery of a breach. Those steps are industry standard and practice and reflect the Governing Agreements themselves. First, “the party discovering such breach shall give prompt written

¹¹ *Supra* n.2.

¹² It is my experience that sampling is common in pre-purchase due diligence.

notice to the other party.”¹³ In my experience, that written notice would be in the form of a repurchase demand letter, which would either reference a single loan or include a schedule of loans with a detailed description of the type of breach alleged on each loan. The repurchase demand letter would also identify which specific representation in the mortgage loan sale agreement was breached and provide loan-level facts supporting the claim. I do not recall ever having seen a repurchase demand that did not include such loan-level detail. Attached as Exhibit C is a sample repurchase demand letter I issued when a loan represented to have mortgage insurance in fact did not.

Each alleged breach would also have to have a material and adverse effect on the value of the loan. This element must be established at the loan level because factors other than a breach of a representation and warranty may be the underlying reason for a diminished value on a loan.

Many macroeconomic factors can be the root cause of diminished values including:

- (1) significant changes in housing prices;
- (2) increasing unemployment rates
- (3) collapse of liquidity in the capital markets; and/or
- (4) unexpected default rates in the mortgage market.

If it was not the alleged breach, but rather one of these types of factors (which are only examples) that caused the loan to lose value, then there is no claim to be made against the seller.

Additionally, in my experience, defaults that occur years after origination are unlikely to have been caused by breaches of representations and warranties by the seller. Instead, they are often caused by microeconomic life events, including loss of income due to illness, job loss, reduction in working hours, bonus reduction, divorce, or death of one's spouse. Mortgage loan servicers, as a matter of course, attempt to ascertain a reason for default (also known as the

¹³ MLSAA for LSX 2007-6 at page 6, Section 1.04 (d).

“RFD”) and record that RFD in the servicing notes for each individual delinquent loan. They do this because the RFD can be an important element in the potential recovery of losses. This is yet another reason why the cure or repurchase analysis must be performed at the loan level.

C. *The Governing Agreements Reflect Lehman’s Bargained For Ability to Protect Its Downstream Indemnification Rights.*

In my experience and from a business perspective, not applying a loan-level inquiry for claim reconciliation would ignore the allocation of responsibilities among the securitization parties and run contrary to mortgage industry standards and practices, as reflected in the Governing Agreements, requiring notice to Lehman of specific alleged breaches, loan-level evidence to substantiate those claims, and loan-level remedies.

Based on Lehman’s submissions to the Court, I understand that Lehman seeks to preserve its indemnification rights against the originators who sold loans containing alleged breaches of representations and warranties to Lehman. In my experience, downstream indemnification is enforced on a loan-level basis because the representations are made at the loan level, and the remedies are to be performed and calculated on each loan individually.

Specifically, a detailed loan-level repurchase demand from the RMBS Trustees is required for Lehman to work through the next level of the claims process with the originators who sold the loan to Lehman. Lehman must be able to show the basis for the breach and the amount of Lehman’s liability on a per loan basis in order to recover from the correct corresponding counterparty for that specific loan. From a business perspective, the failure of the RMBS Trustees to provide loan-by-loan proof to Lehman may, in turn, impede Lehman’s ability to seek indemnity from originators. My understanding is that the downstream claim process is already underway for loan-level claims Lehman settled with the Government Sponsored Enterprises.

The claims process in the mortgage industry is fairly standard and in my 30 years of experience with these types of agreements, I have not seen much variation. Specifically, it is a contractual agreement that is heavily negotiated and relied upon, and if either party believed at the onset of the transaction that its provisions were not enforceable or performable, it is questionable whether the loan sale would have taken place.

In the regular course of my business at SMLT, I have been presented with repurchase demands from companies buying loans from my company. Since SMLT does not originate mortgage loans, we take these claims back to the party who sold the loans to SMLT. In some cases, we have been able to obtain a simple cure by correction, and in others, we have found a creative solution to cure the breach. For example, in one case we had the originator pay down the principal balance to a level that made the breach of not having mortgage insurance irrelevant. There have also been times when no cure was available, and a loan had to be first repurchased by SMLT, and then repurchased from us by the original seller. These are just a few illustrative examples from my own experience that demonstrate the reliance that parties in my industry place on the downstream indemnification process when that process has been bargained for in the applicable underlying agreements.

Executed this 3rd day of December, 2014.

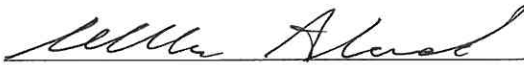

William Alread

Exhibit A

William Alread Resume

William Alread has over thirty years of experience in the secondary mortgage market. Mr. Alread is the co-founder and co-owner of Steel Mountain Loan Trading, which recently merged with Phoenix Collateral Advisors. He is currently the head of the Operations/Contract Finance Department and is engaged in all aspects of the operations of the company. He is responsible for all contract matters, consulting engagements, and the administration of warehouse lines and sub-servicing relationships. Mr. Alread supervises the due-diligence, servicing management and accounting departments. Mr. Alread manages the preparation and negotiation of all contracts and closing documents for purchases and sales. He advises the trading area on bid parameters and bid stipulations and implements portfolio level risk mitigation. Mr. Alread assesses risk factors including borrower credit, regulatory compliance and property values of loan pools prior to final pricing and purchase. He conducts the identification, management and settlement of alleged contract breaches and repurchase demands. Mr. Alread is solely responsible for relationship management and oversight of all third party servicing vendors. He is responsible for all portfolio oversight, management and loss mitigation strategies and execution.

In Mr. Alread's early career, he was focused on due diligence and transaction management within a broad range of asset classes during the Resolution Trust Corporation (RTC) liquidation. He spent seven years with the First Tennessee bond division where he was the senior executive of the due diligence and contract finance areas. At First Tennessee, Mr. Alread managed the relationships with both Fannie Mae and Freddie Mac. During the prior eight years before founding Steel Mountain Loan Trading, Mr. Alread served as Senior Vice President at a private loan acquisition firm and a large national bank in Denver, Colorado.

PRIOR MORTGAGE INDUSTRY EXPERIENCE

- Security National Servicing Corporation (2000-2005) Senior Vice President, Operations
- Matrix Capital Bank (1998-2000) Senior Vice President, Operations
- First Tennessee Capital Assets Corp, a Division of First Tennessee Bank (1991-1998) Vice President, Operations
- First Mortgage Strategies Group, Inc. (1985-1991) Assistant Vice President, Project Manager

EDUCATION

Bachelor of Science Degree – Business Administration
University of Arkansas, Fayetteville, Arkansas
Major: Finance and Banking - Minor: Economics

CURRENT/PRIOR LITIGATION SUPPORT CASES

Mr. Alread has opined in rebuttal to topics including underwriting of residential mortgage loans and their conformity to the requirements of the relevant agreements between the parties. He has also opined on market standards applicable at the time of origination of the loans, the effect of underwriting, seasoning and market conditions on loan values, as well as industry practices relating to the purchase and sale of residential loans.

SMLT was retained by Goodwin Procter LLP on behalf of Nomura Asset Acceptance Corp.

- PLUMBERS' UNION LOCAL NO. 12 PENSION FUND, Individually and On Behalf of All Others Similarly Situated, vs. NOMURA ASSET ACCEPTANCE CORPORATION, et al., Civil Action No. 08-10446-RGS In the United States District Court for the District of Massachusetts

SMLT was retained by Fulbright & Jaworski LLP on behalf of Lehman Brothers Holding.

- LEHMAN BROTHERS HOLDINGS INC., a Delaware corporation v. SECURITYNATIONAL MORTGAGE COMPANY, 11 a Utah corporation, Civil Action No. 2:11-cv-00519-TS, In The United States District Court, District of Utah, Central Division

SMLT was retained by Featherstone Petrie DeSisto LLP on behalf of CitiMortgage Inc.

- CITIMORTGAGE, INC., a New York corporation, v. AMERICAN TITLE SERVICES COMPANY, a Colorado corporation, Civil Action No. 11-cv-02040-CMA-BNB, In The United States District Court For the District of Colorado

SMLT was retained by Featherstone Petrie DeSisto LLP on behalf of CitiMortgage, Inc.

- CITIMORTGAGE, INC., a New York corporation v. AMERICAN MORTGAGE NETWORK, INC., n/k/a Wells Fargo Home Mortgage, a division of Wells Fargo Bank, National Association, Civil Action No. 1:09-CV-02064-JLK-CBS in the United States District Court for the District of Colorado

SMLT was retained by Reilly Pozner LLP on behalf of Lehman Brothers Holding.

- LEHMAN BROTHERS HOLDINGS, INC. v. PRIMELENDING, A PLAINSCAPITAL COMPANY, Civil Action No. 09-CV-00212 PAB-KLM in the United States District Court for the District of Colorado

SMLT was retained by FTI Consulting and Gunster, Yoakley & Stewart, P.A. on behalf of Countrywide.

- GREAT FLORIDA BANK v. COUNTRYWIDE HOME LOANS, INC., COUNTRYWIDE SECURITIES CORP., AND BAC HOME LOANS SERVICING, LP, Civil Action No. 10-CV-22124 in the United States District Court Southern District of Florida

Exhibit B

Information Reviewed In This Case

1. Mortgage Loan Sale and Assignment Agreement – dated January 1, 2005; Structured Asset Securities Corporation, Series 2005-1
2. Trust Agreement – dated January 1, 2005; Structured Asset Securities Corporation, Series 2005-1
3. Mortgage Loan Sale and Assignment Agreement – dated April 1, 2007; Lehman XS Trust, Series 2007-6
4. Trust Agreement – dated June 1, 2007; Structured Asset Securities Corporation, Series 2007-3
5. Exhibit C from Objection To Increase – Proposed RMBS Protocol
6. Declaration of Charles A. Parekh, PH.D. – dated November 14, 2014
7. Declaration of Charles A. Parekh, PH.D. – dated August 21, 2014
8. RMBS Trustees’ Motion to (I) Increase the reserve to \$12.143 billion and (II) Estimate and allow their claims for covered loans at \$12.143 billion pursuant to section 502(c) of the Bankruptcy Code (dated August 22, 2014)
9. Lehman Brothers Holdings Inc.’s (A) Objection to RMBS Trustees’ Motion to (I) Increase the reserve to \$12.143 billion and (II) Estimate and allow their claims for covered loans at \$12.143 billion pursuant to section 502(c) of the Bankruptcy Code, and (B) Cross-motion to establish a protocol to resolve claims filed by RMBS Trustees (dated October 15, 2014)
10. The RMBS Trustees’ (1) Reply In Support Of Their Motion To Estimate The RMBS Claims Using Statistical Sampling, And (2) Opposition To Lehman’s Cross-Motion For A Full Loan-By-Loan Review (dated October 15, 2014)
11. Trust Agreement – dated April 1, 2007; Lehman XS Trust, Series 2007-6
12. Declaration of James H. Aronoff – dated August 21, 2014
13. Recovco Report dated December 3, 2014 with accompanying exhibits
14. Recovco and Digital Risk websites

Exhibit C

STEEL MOUNTAIN CAPITAL MANAGEMENT LLC

VIA OVERNIGHT DELIVERY

July 11, 20[REDACTED]

Mr. [REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] Loan # 210 [REDACTED]
Breach: Invalid Private Mortgage Insurance

Notification of Breach of Representations, Warranties and Covenants pursuant to the terms of the Agreement for the Purchase and Sale of Mortgage Loans dated [REDACTED] (the "Agreement") by and between Steel Mountain Capital II, LLC ("Purchaser") and [REDACTED] Mortgage LLC ("Seller").

Dear Mr. [REDACTED],

This letter will serve as notification that a breach of Section 3.02 (i) under the Agreement has been discovered by Purchaser with regard to the loan referenced above.

This loan was disclosed as having Private Mortgage Insurance ("PMI"). The Mortgage Loan Schedule identifies this loan as having PMI. Please see the attached letter from Radian rescinding the PMI.

Purchaser hereby demands repurchase of the above referenced loan under the terms of the Agreement.

Please contact me concerning the repurchase date, the repurchase amount, returning the collateral file and the servicing transfer. I can be reached at [REDACTED].

Sincerely,

William Alread
Managing Partner

3190 S. Wadsworth Blvd Suite 150, Lakewood, CO. 80227
[REDACTED]